

The City Council of the City of Charlotte, North Carolina convened for a Dinner Briefing on Monday, January 20, 2015 at 5:16 p.m. in Room CH-14 of the Charlotte Mecklenburg Government Center with Mayor Dan Clodfelter presiding. Councilmembers present were Al Austin, John Autry, Michael Barnes, Ed Driggs, Claire Fallon, David Howard, Vi Lyles, LaWana Mayfield, Greg Phipps and Kenny Smith.

ABSENT UNTIL NOTED: Councilmember Patsy Kinsey

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ITEM NO. 1: AGENDA REVIEW

Tammy Keplinger, Planning said we have tons of deferrals so I will go through the deferrals quickly. Item No. 1 is a petition from 2009 for Dona Patterson. She came in with a conventional request for office and staff is not supporting it; the Zoning Committee recommended denial and she asked for an indefinite deferral. She has now come back in with an additional petition that is conditional and in order to move forward with that petition, which is on the schedule for a hearing tonight, we need to withdraw the 2009 case, so that is why that one is up for withdrawal.

Councilmember Mayfield said so that means that she is starting all over.

Ms. Keplinger said yes and met all the requirements for a conditional rezoning. Item No. 2, Petition No. 2014-021 which is a Text Amendment; the request is to defer to April. Item No. 3, Petition No. 2014-031 for Wilkinson Partners, LLC; this one has had a little bit of trouble and asking for another deferral to March. There is a sufficient Protest Petition. They are looking at different development scenarios for this property and hopefully that will finish that process.

Councilmember Smith said is this the one we approved a while back and they had to come back?

Ms. Keplinger said this is the one; it wasn't approved, it went through the public hearing process and they showed a site plan that did not meet the Sub-division Ordinance requirements so they had to come back.

Item No. 4, Petition No. 2014-042 for Moss Road Development Partners, they are asking for the decision to be deferred to February. Item No. 5, Petition No. 2014-043, this is one that was... when your agenda was published last week. It is for Mark Patterson on Prosperity Church Road; we have a protest petition and we don't have all the Council Members here tonight and it looks like Ms. Kinsey will arrive later and Mayor Clodfelter is going to be in and out and we felt like we weren't really sure that they would both be here at the same time to have a vote on this petition so the petitioner would like to defer until February 16.

Mayor Clodfelter said have you told him what his chances are on this petition?

Councilmember Phipps said I haven't seen him but one time and that was at the public hearing back in October.

Mayor Clodfelter said it might not hurt for somebody to tell him what the headcount currently is. The question is do we want to vote it tonight or do we want to defer it.

Councilmember Barnes said could we vote on it next Monday or would it have to be the next Zoning Meeting?

Ms. Keplinger said you can do it next Monday.

Mr. Phipps said I don't object to it.

Mayor Clodfelter said we will defer it to February.

Ms. Keplinger said Item No. 6, Petition No. 2014-068 for City of Charlotte; this is the Joint Communication Center, decision deferred to April. Item No. 7, Petition No. 2014-071 this is a Text

Amendment on animal care and fostering; you can see it says deferred indefinitely, but staff forgot to change that request to a withdrawal.

City Manager Ron Carlee said if we find something that actually works we will bring you a preview and have advanced conversations for that process.

Mayor Clodfelter said you will have a preview before the petition is filed?

Mr. Smith said what happens in the interim; it is status quo so if you live next to 20 dogs that are being fostered, tough luck?

Mayor Clodfelter said no, they are not allowed.

Councilmember Lyles said that is what I thought if it was a kennel.

Mr. Carlee said we will try to sort this for you and give you a memo on what status quo means.

Mr. Smith said I would love to know before I vote. I was under the understanding from our last meeting that it was indeed ambiguous and that is why we are trying to clarify it so I would love to know before I vote on it.

Mayor Clodfelter said it is a good request. Let's get the answer to Mr. Smith's question but I think the decision of the staff is that what they've got on the table isn't going to solve the problem so if we could we would like to hear what they have to say.

Mr. Carlee said we're still going to work the issue we just need to find the right combination that addresses the issue.

Ms. Keplinger said Item No. 9, Petition No. 2014-092 by Pavilion Development at Nations Ford and Tyvola Road. They made some changes after the Zoning Committee meeting so there will have to be that special vote as to whether to send it back to the Zoning Committee or not. There is a protest petition but it is insufficient and the Petitioner has requested to defer the decision until February.

Mayor Clodfelter said a deferral of the decision to send it back or not or a deferral on the decision on the petition.

Ms. Keplinger said they asked for a deferral of the decision.

Mayor Clodfelter said the decision we have tonight is whether to send it back to the Zoning Committee. Is that what they want deferred?

Ms. Keplinger said no, they want the decision on the entire case deferred. What we have done most recent and our more recent history is if there is a vote to send it back to the Zoning Committee you would go ahead and vote for that tonight so that they can go back to the Zoning Committee if they need to.

Mayor Clodfelter said that would accomplish almost the same thing as a deferral of the decision tonight except it would let the Zoning Committee look at the changes too. What is your recommendation?

Ms. Keplinger said staff is not supporting the rezoning even with the changes.

Ms. Lyles said that was my question. We have a decision that we are prepared to make; why would we send it back and take the time and energy. I think that is not very helpful.

Ms. Keplinger said you don't have to send it back. What the ordinance says is that you have to decide whether the changes are significant or not. Most all of the cases you said that they are not significant changes. If you want to say they are not significant and not to send it back you can do that tonight.

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Ms. Lyles said just a follow-up I think the question is even if there are significant changes why do we vote to send it back if we are not prepared even with the significant changes. Are we required?

Ms. Kiplinger said no it is your discretion.

Mayor Clodfelter said is the petitioner contemplating further changes to the petition? Is that why they asked for a deferral on the decision tonight?

Ms. Keplinger said I have not had that conversation with the petitioner but he is in the room.

Mayor Clodfelter said petitioner or representative, were you thinking about amending your plan?

The petitioner said we are not requesting deferral to take it back to the Zoning Committee, we are requesting a deferral on the vote because we'd like to explore a way to improve this for the community.

Mayor Clodfelter said are you thinking you might change the plan?

The petitioner said we may, depending on how those conversations go.

Mayor Clodfelter said or you might not.

The petitioner said correct.

Ms. Lyles said I think what I'm hearing the petitioner saying is that... I'm not sure what I'm hearing. I was going to say we could just let it come back to a vote in February but that is not what I'm hearing.

The Petitioner said that is what I would like to do. I would like to defer everything until February.

Councilmember Driggs said therefore in February we might have to vote on whether or not to send it back at that time.

Mayor Clodfelter said indeed so, based on changes you might make.

The petitioner said yes that is correct.

Councilmember Fallon said could you tell me why Planning says no.

Ms. Keplinger said the Area Plan for this particular piece of property recommends office and some retail uses but it was specifically prohibitive of gasoline sales or automobile services I think is the exact wording. That was done in a rezoning that was done in the 1990's; we just don't feel there have been any changes in the area to say that this area is now a taker of automobile services and gasoline stations.

Ms. Fallon said what is in the area? As I recall there is a ... company across the street and Bob Evans or something else in the area.

Councilmember Mayfield said if you take a right off of Tyvola, not the left where the ...car dealership is, you make a right on West Tyvola and you go to Truliant Bank and some other hotels back over there directly across the street.

Ms. Fallon said has that been changed since 1990 at all? Have your plans for the area been changed?

Ms. Keplinger said the plans for the area were updated by a 1993 rezoning which rezoned this property as well as the adjacent properties. There was an office park development and there are other properties that have developed with hotels and motels and this site's request is for a convenience store.

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Ms. Fallon said are you going to update the plan?

Ms. Keplinger said the plan would be updated automatically if the rezoning is approved, because every rezoning updates our plan, but in terms of actually doing an area plan or looking at that plan I don't believe that is on our radar.

Ms. Fallon so it stands as what you have decided originally?

Ms. Mayfield said just so we are all on the same page; this petition is as was mentioned not supported by the staff. The community has a lot of concerns; as the District Representative, I have a lot of concerns. If we were moving forward then I would not be in support of it, but I did also have a conversation with our Legal Department and it would be setting a new precedent if a request for a deferral is made and if we move forward with a decision one way or the other, once that request is made that could set a new precedent. I'm not necessarily a fan of opening that particular door so I would support the deferral but unless I see some major changes and I hear a lot of support from the community because I've heard none from the immediate community, even though the protest is insufficient based on our standards. The impact is what I'm concerned about to the neighboring community as well as the hotel that are right there. I will support us deferring to February, but that is mainly because I'm not interested in setting a new precedent by having a deferral request that we then decide that we are going to make a decision on it.

Ms. Keplinger said Item No. 18, Petition No. 2014-078 is Park Selwyn and this is a deferral of the hearing to February. There is a sufficient protest petition on that.

Mr. Smith said I was asked today how many deferrals are you allowed on a petition and I didn't know the answer to that.

Ms. Keplinger said there is not a limit. We are going to talk about that in our follow-up report.

Item No. 20, Petition No. 2014-109 for Midtown Area Partners II, LLC. There is a sufficient protest, deferred to February. Item No. 24, Petition No. 2014-019, this is City of Charlotte, the Bojangles Arena, deferred to April. Item No. 23, Petition No. 2014-115, Satwinder Singh, they did not submit their community meeting report so it cannot go to hearing. It is deferred to February.

Mayor Clodfelter said we still need a motion on that formally right?

Ms. Keplinger said yes.

Ms. Keplinger said Item No. 27, Petition No. 2015-007, Village at Robinson Farm, deferred to February; also they did not get their community meeting report in. Item No. 28, Petition No. 2015-010, Mintworth DEI, LLC, hearing, deferred to February. Item No. 8, Petition No. 2014-074 by Terwilliger Pappas Multifamily Partners, LLC; since the Zoning Committee vote on this there have been changes to the site plan. They are also included in your handout and I will be happy to read those out at the dais.

Mayor Clodfelter said I think you will need to unless we have copies. Any chance you can get copies and distribute them in advance?

Ms. Keplinger said yes sir we will. The changes to two notes and those two notes basically resolved all of the outstanding issues that staff had with the rezoning petition, so in your agenda you will see that staff was recommending approval upon the resolution of the outstanding issues and those have been resolved. We are recommending approval, but since those changes occurred after the Zoning Committee meeting we have to have this special vote not to send it back to the Zoning Committee for further consideration.

Mayor Clodfelter said I am going to recuse on this item but just for the purpose of recognizing people who want to ask questions here I'll do that.

Councilmember Driggs said I am aware of changes that have been ongoing in terms of trying to get issues resolved; do these generally relate to landscaping or do they relate to the description of the use of the two acres and can you give me a general idea of what we are talking about.

Ms. Keplinger said the Petitioner's agent is in the room and maybe we can ask him, I don't have them right in front of me.

Mr. Driggs said I will look at it and just be sure we are getting those so I know what I'm recommending. Because then what we would do is vote on whether or not to send it back and if we decide we didn't need to we would proceed for a up or down vote on this issue.

Councilmember Lyles said Councilmember Kinsey will not be here and if you are recused and this should take place before she is in attendance and the protest is sufficient, where does that leave us?

Ms. Keplinger said we have to have less than 10 Councilmembers present for the vote to go below nine.

Mr. Driggs said you need three quarters of the eligible and whether they are here or not that is nine regardless of whether Ms. Kinsey is here.

Ms. Lyles said that is my understanding and I just wondered if there were any questions about that.

Ms. Keplinger said we did have a sufficient protest petition on Terwilliger Pappas and we did have some names that have been removed from the protest petition but even with the removal of those names it is still sufficient. Item No. 11, Petition No. 2014-101 for LGI Homes; this is the property in Mr. Austin's district over on Reames Road that came in for the R-5 rezoning and it was conventional. I think the petitioner heard very clearly at the public hearing that there was a need to go conditional on this case so they are asking for a new public hearing on February 16 to allow the conversion of this request to a conditional application. This has been through the Zoning Committee and they are making this recommendation to you also. Item No. 19, Petition No. 2014-100, this is from November; it is a case in the North Davidson area for a rezoning that was sponsored by the City to TOD and Tony Kuhn was the representative for the property owner. You opened the public hearing and continued it to this month, to tonight's meeting. During that time the City has been working with the petitioner and we believe that the petitioner will more than likely come back in with a conditional application and hopefully that will be in the next few months. The public hearing is still open tonight so what we would ask is that the public hearing be closed and then we will send this back to the Zoning Committee next week. Hopefully by next week we will know which direction Mr. Kuhn is wanting to go but if he is going to continue with the rezoning or whether he is going to apply for a conditional application and if he applies for a conditional application the Zoning Committee will send it back to you requesting a new public hearing just like they did for LGI. Then we will consider whether that petition will go on March or April agenda, depending on how far along ...

Mayor Clodfelter said so we will close this hearing and await the results.

Ms. Keplinger said right; Hollis Nixon from North Davidson, I spoke with her this afternoon and she is not going to be here today but Kevin is going to be representing them and they are fine with moving forward with that path. Item No. 21, Petition No. 2014-110 is for Unique Southern Estates, LLC and this is the Van Landingham Estate petition. This is a protested petition which is yet to be determined so we will have the public hearing on it tonight. Item No. 26, Petition No. 2015-005 is for SIM USA; this is Choate Circle at Moss Road and is for the Gordon Conwell Seminary that is right inside the South Carolina line. They have a protest petition which the efficiency is yet to be determined.

Mr. Smith said No. 19, why would the go to a conditional plan?

Ms. Keplinger said they had a lot of concerns from the North Davidson residents about wanting to know when it would go to TOD. It is also the preservation of the greenway that is part of the Cross Charlotte Trail. It is really important for us to try to get that so we are working with the petitioner

and after the hearing all those that information. They are willing to work with us on accomplishing some of those objectives.

Mr. Smith said I just want to make sure that we don't end up with too much deviation from what I think is standard policy. Regarding No. 6, the City of Charlotte and the Command Center deferring to April, what are our implications on deferring the whole thing? It puts a hold on the project that I thought was reasonably critical but pushing it out to April what does that do to that project?

City Manager Ron Carlee said there is no immediate crisis in terms of having to meet a specific deadline to get into the new facility. The only real problem is holding up the finalization of the plans and construction but because this is a significant City investment it is really important that there is adequate time for us to identify ... to do some more briefing of the Mayor and Council we really should have done before the hearing. We didn't and now we are sort of back tracking to make sure all of you are fully aware of what we are doing and why we are doing it and if there are concerns or issues we have addressed. Once it is built we are stuck with this.

Ms. Lyles said I'm looking at all the deferrals in February and wondering how many hearings are we actually holding in February. I'm just being realistic it's not likely that I'm able to make a good decision or listen very well after 10:30 or 11:00 p.m. so I just wondered where we would be with all these February deferrals and the schedule that we have.

Ms. Keplinger said it still can change but right now we have about 24 hearings for February and we have 18 that are scheduled for March.

Councilmember Howard said I just want to make sure everybody got Councilmember Kinsey's e-mail about Item No. 16 and support of it. If you haven't I'm happy to share with you, but she is in full support of it and she said they worked with the neighborhood and I just wanted to make sure that was part of the record and if you have any questions about just let me know.

Mayor Clodfelter said after we look at all these deferrals and withdrawals I'm going to ask the petitioner's representatives who are here tonight, don't you just want to withdraw or defer the rest of the petitions tonight so we can go home (joking).

Mr. Carlee said I would like to go back to the issue that Councilmember Lyles raised because we've never really come up with a definitive answer. I never got a sense from Council about what your desires are when we have the potential for really extending a zoning meeting so I'm not necessarily asking you to do that tonight, but I would like for us to work through what we think it is really going to look like in February. I would encourage you to have some conversation among yourselves so we don't get to February and have a really long meeting and not have a game plan behind it.

Mayor Clodfelter said we are going to take the next 15 minutes we've got before going to the Chamber and Ms. Keplinger or Mr. McKinney is going to talk to us about some ideas you guys are already working on. Are you going to pass that out tonight?

Ms. Keplinger said no, not tonight.

Mayor Clodfelter said it would be great to let Council see it and think about it in advance. These are some ideas that address your questions about options and ideas about how to tinker with the process in order to deal with time management pressures. When are you going to pass that out?

Ms. Keplinger said I think the path forward is to sit down and have some more internal meetings and meet with you and then bring it to Council, probably at our next meeting.

Mr. Carlee said I wouldn't have a problem giving it out in advance, but I would ask this; if we do that it is pretty raw right now and I would ask that it be viewed as brainstorming and not a set of recommendations.

Mayor Clodfelter said I think we can handle that; the question is whether the media can handle it and whether the petitioners and their representatives can handle it. I really think the Council needs to see the ideas so they can begin to think about them because to sort of come into a meeting and
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say here is a list of recommendations, I just don't think that is going to be a productive way to proceed.

Mr. Carlee said let us look at it tomorrow and I will try to clean it up a little bit and will label all over it, not recommendation, these are just ideas.

Mayor Clodfelter said I think the sooner Councilmember can start to chew on ideas I think the better.

Mr. Howard said I'm wondering if maybe next month since we kind of see this one coming, what does it take to move our meeting up to 5:00 so we are not sitting back here, but we are sitting out here. Is that too hard to do? We also could just come earlier and we are here at 5:00 anyway so maybe we could come at 4:30 to eat and then go out there and get started. The reason I'm a little leery is because I was here when we had nothing. We had almost no re-zonings when the economy was bad and I just want to be careful doing anything, and I said this last month, anything that would slow down good healthy development happening in this community and if we start doing things like artificial caps on how many petitions we will hear, I worry about that. Again because I was here when there was nothing happening and our economy came to a standstill. Where we can see the train coming down the track and we can adjust our schedules a month here or a month there because it won't be every month, maybe we should just come earlier and get going earlier; just a suggestion.

Ms. Lyles said mine isn't so much the number of petitions; it is how are we structured to be more efficient, this idea you get to come out, you have a plan you send it to Zoning Committee, they've worked hard to come back and then you've got a delay because you've got to send it back because of the changes. It is not necessarily the number but it seems to me sometimes the repetitive nature of what we are dealing with is sometimes an issue and is there a better way or process to work it out. Again just brainstorming and using this as an example to figure out where are there efficiencies in the system that can occur so that we can actually move more quickly and do it in a way that is rational and gets people to know that there is a more certain path. We just had a withdrawal today of Petition No. 2009-075 that's to start all over again. That to me it may be the outlier but that is the kind of thing that I wonder about.

Mr. Howard said back when I was Chair of Commission we actually put forward some recommendations and it was controversial then, which included giving the Commission somewhat of sending consent items to the Council when there were no protest petitions and there were no controversial situations. If we are going to look at the whole system again, let's look at the whole system and not just efficiencies once it gets our level. Let's look at the system all the way back.

Mr. Carlee said there are some larger issues for us to work at and the brainstorming sheet you will get from us are some ideas of how to speed up the meetings to be more efficient. The critical question is it would be helpful to have some feedback on and not necessarily tonight, but tonight would be fine, is whether or not a majority of the Council wants to have an outside time at which you would go based on giving people a full hearing and being able to thoughtfully consider and act on decisions. A lot of legislative bodies don't; they will go to 2:00 or 3:00 a.m. if they need to and get through the agenda; others do set time limits but they have contingency plans for when they are going to continue such as on adjournment time or other strategies and if I knew what the majority wishes were of the Council then we could kind of be orderly and prepare for you either adjournment dates or at what time to order pizza.

Mayor Clodfelter said we can't solve this tonight and that is why I encourage you to get something in circulation so folks can begin to think about it sooner.

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ITEM 2: FOLLOW UP REPORT

Tammy Keplinger, Planning the question was or the statement was provide information on the past deferral policy study. In 2008 The Planning Commission formed a sub-committee and the sub-committee was to explore ways to improve the rezoning process. As part of that the subcommittee identified that one of the problems that we have was significant interruptions to the zoning process was the number of deferrals. It caused confusion for the citizens who participate in the rezoning

process and it required additional staff resources in time, printing and all of that. The Rezoning Process subcommittee, as they were called then, reviewed the deferral request in 2007 and 2008 and they looked at the ones that were deferred by the Zoning Committee and also the ones that were deferred by the City Council and they came up with several recommendations; some of them were to limit the number of times a petitioner can defer a case along with other details on how some process changes could work related to deferrals.

The Planning Commission's subcommittee took this to the City Council Economic Development and Planning Committee and that was right at the time that the economy turned and because of that the Committee did not feel it was appropriate to pursue any of those actions at that time. As Mr. Carlee said we are currently working on some of those initiatives again so that is something that you will be hearing from us on.

Councilmember Howard said just so you know that the process worked, this book came from that process too. We used to get thick notebooks with a lot more paperwork behind each one of them and maps with every last one of the plans. Part of that Committee came up with working with staff and limited it to this book that was more condensed. Believe it used to be a lot thicker than this so just so you know, that was one of the things that happened. It was thicker than that because we got all the maps the week before too. The process can work if we kind of trust it. We actually got the Zoning Committee involved in the process.

Ms. Keplinger said we have two other questions in the Follow-up Report. The question was what effect will the development of a multi-use community at North Community House and Bryant Farms Road have on the Ballantyne markers and will they be removed and replaced and what is the maximum height of the hotels on Toringdon. As part of the transportation project to install a round-about at North Community House Road and Bryant Farms Road, the markers were purchased by the City as part of the right-of-way acquisition. The Ballantyne Business Association has submitted a request to relocate several of the markets and the City has no issue of the Association actually relocating the markets at their own expense prior to the project construction beginning. If the markers are not relocated they will be removed.

Councilmember Barnes said so the City bought the markers and they are going to be relocated. Did we sell them to the people who are going to be reinstalling them?

Ms. Keplinger said I am going see if Sandy Montgomery, who worked on this project in the Follow-up Report ...

Mr. Barnes said it just seems odd to me that we bought them if we've got to relocate them and then sell them to the people who are doing this. Why did we do that?

Sandra Montgomery, Planning said I will find out the answer.

Mr. Barnes said and how much did they cost to buy?

Ms. Keplinger said the next question is the maximum height of the hotels in Toringdon and it is six stories as approved. Finally what are the actual traffic counts on Randolph Road and Colwick Road near the development project across from Cotswold Shopping Center? C-DOT has reported that the average daily traffic count is 25,000 vehicle trips per day on Randolph Road.

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ITEM 3: REZONING CASES OF SPECIAL INTEREST

Tammy Keplinger, Planning said also in your packet you will see the upcoming rezoning cases of special interest; you have a speaker's list, you also have a Text Amendment, Area Plan, Study and Process Enhancement Update. I will turn this over to Ed McKinney.

Mayor Clodfelter said the changes were passed out and I wanted to make sure you got the changes.

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ITEM 4: AREA PLAN STATUS AND TEXT AMENDMENT UPDATE

Interim Planning Director Ed McKinney said (comments inaudible)...as a follow-up to that one of the conversations we had last time was that our next set of area plans we will have properties on how we do an assessment. The last time we did an assessment periodically we look at a set of metrics, development activity, rezoning activity, citizen input or requests, socio economic factors and try to evaluate where the priorities would be for our next ... It is time for us to do that evaluation and that will probably be out next priority.... We need to weigh that into the priorities we have globally, one of the big ones is the Zoning Ordinance itself so while we will map out that analysis and set some priorities we do have to look at it from a department wise standpoint and prioritize if we are ready to do something like the Zoning Ordinance and research as we move that project forward.

Councilmember Howard said I would hope part of the process is actually looking at some of the dates on some of the oldest ones and see what you need to do first. I'm not sure if that is part of your evaluation, but that is where we get caught all time on the age of the plan. I would hope, especially if you could see what age of plan with growth and development activities to do those first. That would be very helpful.

Mr. McKinney said age is one of the metrics.

Councilmember Driggs said another criteria of solving the changes since the last time; down in our area we've got this blanket R-3 everywhere. I keep having it brought up and the reason why something we want to do there doesn't make sense. We have no reference points as soon as we are not adhering to that plan. I think the question of how different the area is from what it was when the plan was adopted should also count.

Councilmember Autry said to piggy back on Councilmember Howard's comment also a priority would be the areas where plans were marked to be done, but have yet to be done.

Councilmember Phipps said on Item No. 3, Text Amendment, Area Plan, Study and Process Enhancement Update, on the animal fostering will there be another request for stakeholders?

Mr. McKinney said that is one we just talked about earlier. We pulled that ... will bring to you a new recommendation. We pulled it from the petition so we can bring back to you a better set of recommendations.

Mr. Phipps said are we going to be requesting new stakeholders or the same stakeholders?

Mr. McKinney said we will certainly be working with the stakeholders that we've been working with and as others are needed we will do that.

The Dinner Meeting was recessed at 5:57 to move to the Chamber for the regularly scheduled Zoning Meeting.

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ZONING MEETING

The City Council of the City of Charlotte reconvened at 6:03 p.m. in the Meeting Chamber of the Charlotte Mecklenburg Government Center for the Zoning Meeting with Mayor Dan Clodfelter presiding. Councilmembers present were Al Austin, John Autry, Michael Barnes, Ed Driggs, Claire Fallon, David Howard, Vi Lyles, LaWana Mayfield, Greg Phipps and Kinney Smith.

Absent Until Noted: Councilmember Patsy Kinsey.

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INVOCATION AND PLEDGE

Councilmember Fallon gave the Invocation, followed by the Pledge of Allegiance to the Flag.

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INTRODUCTION OF ZONING COMMITTEE

Tracy Dodson, Zoning Committee introduced members of the Zoning Committee. The Zoning Committee will meet next Wednesday at 4:30 p.m. in the Government Center to make recommendations on the public hearings that we hear this evening. The public is invited but that meeting is not an extension of the public hearing. For questions or to contact the Zoning Committee, information can be found at charlotteplanning.org.

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EXPLANATION OF ZONING MEETING PROCESS

Mayor Clodfelter explained the Zoning Meeting rules and procedures.

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DEFERRALS

Mayor Clodfelter said requests have been made for several of the decisions to be deferred to a later meeting. I will read those and it is up to the Council as to whether they will vote to defer these or not, but if they do defer the petition, we won't take any action on that petition tonight.

ITEM NO. 1: PETITION NO. 2009-075

Petition No. 2009-075 by Dona Patterson for property on the east side of West Sugar Creek Road, close to North Tryon Street; the request has been made to withdraw that petition and it will not be decided at all if the withdrawal is allowed.

Motion was made by Councilmember Driggs, seconded by Councilmember Lyles, and carried unanimously to accept the withdrawal of Petition No. 2009-075.

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ITEM NO 2: PETITION NO. 2014-021

Petition No. 2014-021 by Charlotte Mecklenburg Planning Department for a Text Amendment related to mobile farmer's markets; the request has been made to defer the decision to April.

Motion was made by Councilmember Mayfield, seconded by Councilmember Lyles, and carried unanimously to defer the decision on Petition No. 2014-021 to April.

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ITEM NO 3: PETITION NO. 2014-031

Petition No. 2014-031 by Wilkison Partners, LLC for property at the southeast corner of Youngblood Road and Shelburne Farms Drive; the request has been made to defer the decision to March. Protest petition received is sufficient.

Motion was made by Councilmember Fallon, seconded by Councilmember Lyles, and carried unanimously to defer the decision on Petition No. 2014-031 to March.

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ITEM NO 4: PETITION NO. 2014-042

Petition No. 2014-042 by Moss Road Development Partners for property on the southwest corner of South Tryon Street and Moss Road; the request has been to defer the decision to February.

Motion was made by Councilmember Mayfield, seconded by Councilmember Lyles, and carried unanimously to defer the decision on Petition No. 2014-042 to February.

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ITEM NO 5: PETITION NO. 2014-043

Petition No. 2014-043 by Mark Patterson for property on the west side of Prosperity Church Road between Prosperity Point Lane and Pinewood Lane; the request has been made to defer the decision to February. Protest petition is sufficient.

Motion was made by Councilmember Phipps, seconded by Councilmember Driggs, and carried unanimously to defer the decision on Petition No. 2014-043 to February.

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ITEM NO 6: PETITION NO. 2014-068

Petition No. 2014-068 by City of Charlotte for property on Statesville Avenue, Dalton Avenue, North Graham Street and Armour Drive; the request has been made to defer the decision to April.

Motion was made by Councilmember Lyles, seconded by Councilmember Austin, and carried unanimously, to defer Petition No. 2014-068 to April.

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ITEM NO 7: PETITION NO. 2014-071

Petition No. 2014-071 by Charlotte Mecklenburg Planning Department for a Text Amendment related to animal care and fostering; the request has been made to withdraw that petition altogether.

Motion was made by Councilmember Driggs, seconded by Councilmember Austin, and carried unanimously to withdraw Petition No. 2014-071.

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ITEM NO 9: PETITION NO. 2014-092

Petition No. 2014-092 by Pavilion Development Company for property on the northeast corner of Nations Ford Road and Tyvola Road; the request has been made to defer the decision to February. Protest petition is insufficient.

Councilmember Smith said he needs to be recused from voting on this item.

Motion was made by Councilmember Mayfield, seconded by Councilmember Driggs, and carried unanimously to recuse Councilmember Smith from voting on Petition No. 2014-092.

Motion was made by Councilmember Lyles, seconded by Councilmember Mayfield, and carried unanimously to defer Petition No. 2014-092 to February.

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ITEM NO 18: PETITION NO. 2014-078

Petition No. 2014-078 by Park Selwyn, LLC for property on the north side of East Woodlawn Road between Brandywine Road and Selwyn Avenue; the request has been made to defer the hearing to February. Protest is sufficient.

Motion was made by Councilmember Austin, seconded by Councilmember Smith, and carried unanimously to defer the hearing on Petition No. 2014-078 to February.

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ITEM NO 20: PETITION NO. 2014-109

Petition No. 2014-109 by Midtown Area Partners II for property at the northeast corner of Baxter Street and South Kings Drive; the request has been made to defer the public hearing to February.

Motion was made by Councilmember Lyles, seconded by Councilmember Driggs, and carried unanimously to defer the hearing on Petition No. 2014-109 to February.

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ITEM NO 24: PETITION NO. 2014-119

Petition No. 2014-119 by the City of Charlotte for property on the south side of East Independence Boulevard surrounded by Briar Creek Road and Arena Boulevard; the request has been made to defer the hearing to April.

Motion was made by Councilmember Lyles, seconded by Councilmember Driggs, and carried unanimously to defer the hearing on Petition No. 2014-119 to April.

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ITEM NO 23: PETITION NO. 2014-115

Petition No. 2014-115 by Satwinder Singh for property on Parker Drive between Remount Road and Berryhill Road; the request has been made and the policy would require a deferral of the hearing to February because the Community Meeting has not been held.

Motion was made by Councilmember Mayfield, seconded by Councilmember Fallon, and carried unanimously to defer the hearing on Petition No. 2014-115 to February.

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ITEM NO 27: PETITION NO. 2015-007

Petition No. 2015-007 by Village at Robinson Farm, LLC for property on the southwest corner of Rea Road and Williams Pond Lane; the request is to defer the hearing to February because the Community Meeting has not been held.

Motion was made by Councilmember Driggs, seconded by Councilmember Fallon, and carried unanimously to defer the hearing on Petition No. 2015-007 to February.

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ITEM NO 28: PETITION NO. 2015-010

Petition No. 2015-010 by Mintworth DEI, LLC for property at the southwest corner of Idlewild Road and Wyalong Drive; the request has been made to defer the hearing to February.

Motion was made by Councilmember Austin, seconded by Councilmember Driggs, and carried unanimously to defer Petition No. 2015-010 to February.

Councilmember Howard said are we changing the way we do these; normally for deferrals we just name them and vote on them all at one time. Are we changing something based on the lawsuit?

Mayor Clodfelter said no sir; I think folks ought to have a chance to hear each petition, know where it is, think about it and be sure they got it captured. A lot of folks are listening to us and interested in the petitions. I'm just trying to be as clear in our communication to the public as we can be.

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DECISIONS

ITEM NO. 8: ORDINANCE NO. 5555-Z, PETITION NO. 2014-074 BY TERWILLIGER PAPPAS MULTIFAMILY PARTNERS, LLC AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE FOR A CHANGE IN ZONING FOR APPROXIMATELY 10 ACRES LOCATED ON THE NORTHEAST CORNER AT THE INTERSECTION OF NORTH COMMUNITY HOUSE ROAD AND BRYANT FARMS ROAD FROM B-1(CD) (NEIGHBORHOOD BUSINESS, CONDITIONAL) TO NS (NEIGHBORHOOD SERVICES).

Motion was made by Councilmember Lyles, seconded by Councilmember Fallon, and carried unanimously to recuse Mayor Clodfelter from participating on Item No. 8.

The Zoning Committee found the retail portion of this petition to be consistent with the South District Plan and the residential portion to be inconsistent with the South District Plan, based on information from the staff analysis and the public hearing, and because: the plan recommends retail uses for the subject properties; however, the Zoning Committee found this petition to be reasonable and in the public interest based on information from the staff analysis and the public hearing, and because: the proposed site plan moves the retail component to the corner of two major thoroughfares; and the proposed site plan integrates the residential component which provides a transition to the adjacent single family properties; and the addition of the residential component results in a multi-use development, which is consistent with the intent of the NS (neighborhood services) district. The Zoning Committee voted 7-0 to recommend approval of this petition with the following modifications:

Development Area A:

1. A note has been added to prohibit the following uses from the site plan: gasoline sales, with or without convenience stores, and automotive uses.
2. A note has been added stating that solid waste/recycling areas will not be allowed to abut Community House Road or Bryant Farms Road unless such areas are enclosed by a wall treatment similar to the architecture of the building.
3. A note has been added that a five-foot sidewalk will be provided to create pedestrian connections between the multi-family component and the non-residential uses.

Development Area B:

4. Dumpster locations for Area B have been shown on the plan.
5. A note has been added that buildings in Area B will be 25 percent masonry material on each side.
6. The dog walk area referenced in Note 2.D has been labeled on the plan.
7. The possible additional garages have been shown on the plan located along the rear property line.
8. Detail of the required plantings for the 25-foot landscape buffer has been shown for Area B.
9. Note 5.C has been removed.
10. A note has been added that the site will comply with the Post Construction Control Ordinance.
11. Multi-Family Design Guidelines for Development Area B:
 - a. Building facades shall front on and address the external and internal streets to reinforce the streetscape.
 - b. Building footprint shall be arranged to enclose and define a variety of public and private spaces, courtyards, open space and green space.
 - c. Provided an ADA accessible path that is connected to the street sidewalk system to provide wheelchair access to the residential building.
 - d. Architectural façade treatment shall be similar on all sides of the apartment buildings.
 - e. Facades along external and internal streets shall incorporate a minimum of 25% masonry materials such as brick, stucco or stone.
 - f. The principal building entrances shall be articulated to identify them as a primary entry point.

- g. Exterior elevations shall incorporate a variety of architectural features such as balconies, patios, windows, doors, columns, common building doorways, covered entrances, pitched roofs and parapets at flat roof areas to provide architectural scale and detail.
 - h. Windows and doors shall account for at least 25% of the total facade area along the external and internal streets, with each floor calculated independently from floor to ceiling.
 - i. Windows shall have a vertical orientation with their height greater than their width.
 - j. For street facades, the maximum length without a window or door on any floor shall not exceed 25 feet.
 - k. Street facades shall incorporate projections and/or indentations so that the maximum length without such an offset in the facade is 100 feet. The minimum depth of such required offsets shall be 12 inches from frame wall to the frame wall. For street facades over 100 feet, at least 15% of the total facade length shall be offset from the primary facade plane.
 - l. Exterior materials of buildings along the external and internal streets shall be limited to brick, stone, pre-cast concrete, wood, stucco, fiber cement siding or panels, glass, or granite. Vinyl or aluminum siding, exposed standard concrete masonry unit (CMU) block, corrugated steel, exposed plywood, and exposed pressboard are prohibited. However, vinyl as a building material may be used on windows, soffits, and on handrails/railings.
 - m. Exterior walls of a single building shall utilize a maximum of five primary building materials (textures, colors, etc.). This requirement shall not include secondary materials such as windows, doors, porches, balconies, foundations, awnings or architectural details.
 - n. Materials may be combined horizontally or vertically. A visually heavier material (such as brick or stone) shall be used below a lighter material (such as siding or stucco).
 - o. Accessory structures, such as garages, shall be consistent with the principal building in material, texture, and color, but may have simplified architectural detailing and features.
 - p. Concrete foundations, if more than 8" is exposed above grade, shall be coated or faced in stucco, brick, synthetic stone, or natural stone.
 - q. Pitched roofs shall have a minimum slope of 4:12. Pitched roof materials may include slate, wood shingles, standing seam pre-finished metal, architectural composition or asphalt shingles.
 - r. Vents, stacks, and roof fans in pitched roof shall be painted to blend with the roof color to minimize their visibility from external streets.
 - s. Flat roofs shall be screened from view from external and internal streets by a parapet.
 - t. Roof top condensing units and other equipment shall be screened from the external and internal streets by a parapet or other architectural feature such as a chimney.
12. A clarification and addition to the required buffer planting along the existing single family development.
- a. A modified 40-foot Class "C" Buffer will be provided where Development Area B abuts existing single family homes as generally depicted on the Rezoning Plan and such buffer shall be installed prior to the issuance of the first certificate of occupancy for the first principle building on Development Area B. The outer 25 feet of this Buffer will be an undisturbed Buffer, and existing vegetation preserved within this portion of the Buffer may be used to meet minimum Buffer planting requirements. To create an effective and enhanced Buffer treatment that is unique and responsive to the existing conditions around the perimeter of the Site, the proposed Buffer will be enhanced in three different ways (Otterdale Court Buffer, Buffton Court Buffer and Moss Mill Lane Buffer) as described below:
 - i. The portion of the Buffer known as Otterdale Court Buffer will be improved with: (i) small maturing evergreen trees eight (8) feet on center, the small maturing evergreen trees must be seven (7) to eight (8) feet tall

- at installation (this will take the place of the Class “C” Buffer shrub requirement); and (ii) a six (6) foot decorative aluminum fence; the fence will be located on the interior edge of the Buffer and the small maturing evergreen trees will be located between the fence and the adjoining property line; the evergreen trees will be arranged as generally depicted on the rezoning plan;
- ii. The portion of the Buffer known as Buffton Court will be improved with:
 - (i) ten (10) small maturing evergreen trees per 100 linear feet, the small maturing evergreen trees must be seven (7) to eight (8) feet tall at installation (this will take the place of the Class “C” Buffer shrub requirement); (ii) no less than three (3) one-story garages will be placed at the edge of the buffer to create a solid wall; (iii) a six (6) foot decorative aluminum fence; the fence will be located on the interior edge of the Buffer and between the proposed garages of the Buffer; the small maturing evergreen trees will be located between the fence and the adjoining property line. The small maturing evergreen trees will be arranged within the buffer to maximize the screening of the Site from the adjoining single-family homes; and
 - iii. The portion of the Buffer known as Moss Mill Lane Buffer will be improved with: (i) small maturing evergreen trees (the number of small evergreen trees to be planted will be calculated at the rate one (1) tree every eight (8) feet along the length of the Buffer), the small maturing evergreen trees must be seven (7) to eight (8) feet tall at installation (this will take the place of the Class “C” Buffer shrub requirement); (ii) a six (6) foot decorative aluminum fence; the fence will be located on the interior edge of the Buffer; the small maturing evergreen trees will be located in the undisturbed portion of the buffer and arranged to maximize their effectiveness at screening the Site from the adjoining single-family homes; (iii) no less than one (1) one story garages will be placed at the edge of the buffer to create a solid wall; and (iv) a row of evergreen shrubs will be placed between the proposed parking spaces and the decorative aluminum fence as generally depicted on the rezoning plan.
- b. Utilities may cross the Buffer at angles of 75 degrees or greater. Retaining walls may be located in the Buffer but not in the undisturbed portion of the buffer.

A protest petition has been filed and found to be sufficient to invoke the rule requiring affirmative votes of $\frac{3}{4}$ of the Mayor and Councilmembers, not excused or recused from voting, in order to rezone the property.

Mayor Pro Tem Barnes said the City Council must determine by a three-quarters vote that the changes to the site plan after the Zoning Committee vote are substantial and if the petition should be referred back to the Zoning Committee for review.

Motion was made by Councilmember Driggs, seconded by Councilmember Howard, and carried unanimously that the changes to Petition No. 2014-074 are not substantial and this petition should not be referred back to the Zoning Committee.

Mayor Pro Tem Barnes said there were two notes added; do you want to clarify those for the general public Ms. Keplinger?

Tammie Keplinger, Planning said I will be glad to; I will be paraphrasing these notes; first there was a note added 4d that blank walls in excess of 20 linear feet, if they are proposed they will be broken up with evergreen shrubs and that is along North Community House Road or Bryant Farms Road. Secondly there was an addition made that says in the event that either parking areas or maneuvering areas associated with the drive-thru accessory use are located between the building located and building development Area A and North Community House or Bryant Farms Road. The 25-foot landscaped setback shall contain a low masonry or stone wall two and one-half feet high together with accent plantings a combination of shrubs, annuals and perennials along the proportion of landscaped setback that abuts the parking and maneuvering areas. The low masonry

wall is only required to screen 50% of the parking and maneuvering areas located between the building and North Community House Road or Bryant Farms Road. It also goes on further to say that parking will be allowed within the 25-foot landscaped building setback, but behind the proposed sidewalk and any areas provided for screening, not in excess of five feet.

Councilmember Driggs said there is a story here and I think most of us are aware of it, but I would like to commend the petitioner the staff, the neighborhood representatives and owner of the subsidiary property on this site for working together to resolve virtually all of the issues that were raised. I believe it is a good use of land and much better than the existing B-1 zoning therefore I am recommending my colleagues to approve it.

Motion was made by Councilmember Driggs, seconded by Councilmember Howard, and carried unanimously to approve Petition No. 2014-074 as amended.

Motion was made by Councilmember Driggs, seconded by Councilmember Howard, and carried unanimously that the retail portion of this petition to be consistent with the South District Plan and the residential portion to be inconsistent with the South District Plan, based on information from the staff analysis and the public hearing, and because the plan recommends retail uses for the subject properties. However, this petition is reasonable and in the public interest based on information from the staff analysis and the public hearing, and because the proposed site plan moves the retail component to the corner of two major thoroughfares; and the proposed site plan integrates the residential component which provides a transition to the adjacent single family properties; and the addition of the residential component results in a multi-use development, which is consistent with the intent of the NS (neighborhood services) district.

The ordinance is recorded in full in Ordinance Book 59, at Page 232-233.

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Mayor Clodfelter said I'm going to allow Mayor Pro Tem Barnes to continue to Chair the meeting; it calls for me to go welcome a group tonight that is in town at an event and I will be absent for about a half-hour. I will return to join you but I've got to go over to Time Warner Arena to say some welcoming words to them to Charlotte. I think the most efficient thing is for you to just continue to Chair.

ITEM NO. 10: ORDINANCE NO. 5556-Z, PETITION NO. 2014-096 BY LENOX DEVELOPMENT GROUP, LLC AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 6.09 ACRES LOCATED ON THE NORTH SIDE OF ARDREY KELL ROAD BETWEEN BLAKENEY HEATH ROAD AND COMMUNITY HOUSE ROAD ACROSS FROM CARSON WHITLEY AVENUE FROM R-3 (SINGLE FAMILY RESIDENTIAL) TO NS (NEIGHBORHOOD SERVICES).

The Zoning Committee found this petition to be inconsistent with the South District Plan, based on information from the staff analysis and the public hearing, and because: the South District Plan recommends residential land uses at up to three dwelling units per acre; and the General Development Policies support residential densities up to eight dwelling units per acre for this site. However, the Zoning Committee found this petition to be reasonable and in the public interest based on the information from the staff analysis and the public hearing, and because: the site is a remnant parcel of Ardrey Kell Road right-of-way; and the site is located outside a retail center and adjacent to residential; and the proposed small office development with limited retail uses is sensitive in form to the surrounding residential properties and provides a buffer and transition to the major thoroughfare; and a wireless phone service provider is the only allowed retail use on the site. The Zoning Committee voted 7-0 to recommend approval of this petition with the following modifications:

1. Limited permitted uses to personal services, uses allowed in the office district that are also
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- allowed in the NS district, and wireless phone service providers, which is the only retail use allowed on the site.
2. Committed building design to be residential in character by amending Note 4b to reduce the required amount of fenestration for building facades facing Ardrey Kell Road from 40 percent to 20 percent. Also added note to building elevations to state “the architectural design may differ from building to building but will be compatible in scale and material types with complementary color pallets, with possible different fenestration sizes and types. Building character will relate to Blakeney nonresidential areas and façade articulation may be in keeping with more general office and medical office fenestration requirements.” Deleted signage from the building elevations.
 3. Amended Note 7b as follows: “The allowed wall signage constructed on the site will utilize similar and/or complementary colors so as to create a cohesive appearance.”
 4. Amended Prohibited or Limited Uses to specify eating/drinking/entertainment establishments Type 1 and 2 as a prohibited use.
 5. Amended Sheet RZ-002a to reflect relocated area for the trash and recycling enclosure, location of a proposed chain link security fence, location of an existing berm that is to remain, and fence elevations.
 6. Amended Note 1d to reduce the total number of principal buildings from four to three.
 7. Amended Note 2a to list wireless phone service providers as a permitted use.
 8. Amended Note 2b to specify a minimum of 50 percent of the allowed square footage must be occupied by uses allowed in the Office zoning district that are also allowed in the NS zoning district. The other 50 percent of the uses may be a combination of personal service uses (as defined in the site plan), (ii) a wireless phone service provider; and uses allowed in the office zoning district that are also allowed in the NS district.
 9. Added Note 5d as follows: “The petitioner will install a five foot black vinyl coated chain link fence across the tree save area at the western edge of the property as generally depicted on the rezoning plan. The black vinyl chain link fence will tie into the decorative wooden fence located within the buffer and extend to the site’s western property boundary.”
 10. Amended Note 5h to add the following: “The proposed dumpster and recycling area will be located along the western property boundary as generally depicted on the rezoning plan.”
 11. Added Note 6b as follows: “The petitioner was granted a variance to reduce the PCCO buffer required along the western property boundary to a 100 foot buffer. The variance was granted by SWAC on October 16, 2014.”
 12. Added Note 6d as follows: “The petitioner will clear the obstructions (silt and debris) from the creek channel(s) that extends into the site from the Blakeney Heath Neighborhood and between the rear of the homes on Fieldcroft Drive and Autumn Applause Drive. This clearing will take place subject to and contingent upon the adjoining property owners granting the petitioner the right, and releasing the petitioner from any liability, while performing the work and subject to the issuance of any required City and/or State permits. The petitioner will clear the obstructions in the creek channel(s) as part of the site development work and prior to the issuance of the first certificate of occupancy for the first building constructed on the site.”

Councilmember Driggs said I want to point out to my colleagues there is no protest petition and we should be clear that doesn’t mean there is no protest. I had a strong reaction from area residents to the original proposal at this location. The petitioner made significant changes to that original plan and worked with the area residents. I will admit to you that some of them are still not happy with the way this turned out. I believe that the changes were significant; greatly reduced the traffic impact. The staff has pointed out that the presence of a Verizon Store at this location as a retail aspect is the basis for their failure to support this and once again I look at that and to me it is not the same thing as having a sporting goods store or something there; it is Verizon Store so my take away from all of this is it is a difficult parcel, it may not be suitable for some uses. I believe this is a good use of the land and therefore I recommend that Council approve it.

Mayor Pro Tem Barnes said and as you indicated the only use will be the Verizon Store.

Mr. Driggs said the beauty salon that was in there; that is a service type of thing. The only retail use is the Verizon Store. The petitioner also wants to put a beauty salon there which is a service establishment.

Motion was made by Councilmember Driggs, seconded by Councilmember Howard, and carried unanimously to approve Petition No. 2014-096 by Lenox Development Group, LLC as amended.

Motion was made by Councilmember Driggs, seconded by Councilmember Howard, and carried unanimously that this petition to be inconsistent with the South District Plan, based on information from the staff analysis and the public hearing, and because the South District Plan recommends residential land uses at up to three dwelling units per acre and the General Development Policies support residential densities up to eight dwelling units per acre for this site. However, this petition is found to be reasonable and in the public interest based on information from the staff analysis and the public hearing, and because the site is a remnant parcel of Ardrey Kell Road right-of-way; and the site is located outside a retail center and adjacent to residential; and the proposed small office development with limited retail uses is sensitive in form to the surrounding residential properties and provides a buffer and transition to the major thoroughfare; and a wireless phone service provider is the only allowed retail use on

The ordinance is recorded in full in Ordinance Book 59, at Page 234-235.

ITEM NO. 11: PETITION NO. 2014-101 BY LGI HOMES NC, LLC FOR A CHANGE IN ZONING FOR APPROXIMATELY 14.30 ACRES LOCATED ON THE EAST SIDE OF REAMES ROAD BETWEEN BELLA VISTA COURT AND LAWNMEADOW DRIVE FROM UR-1(CD) (URBAN RESIDENTIAL, CONDITIONAL) TO R-5 (SINGLE FAMILY RESIDENTIAL).

Mayor Pro Tem Barnes said I believe a new public hearing is being set for February 16, 2015.

Motion was made by Councilmember Austin, seconded by Councilmember Howard, and carried unanimously to convert this petition to a conditional request and set a new public hearing for February 16, 2015.

ITEM NO. 12: ORDINANCE NO. 5557-Z, PETITION NO. 2014-108 BY U-HAUL COMPANY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR 1.4 ACRES GENERALLY LOCATED AT THE SOUTHWEST CORNER OF THE INTERSECTION BETWEEN ALBEMARLE ROAD AND FARM POND LANE FROM B-2 (GENERAL BUSINESS) TO B-D(CD) (DISTRIBUTIVE BUSINESS, CONDITIONAL).

The Zoning Committee found this petition to be inconsistent with the Eastland Area Plan, based on information from the staff analysis and the public hearing, and because the plan recommends retail uses for this area. However, this petition is found to be reasonable and in the public interest based on information from the staff analysis and the public hearing, and because the proposed use will be within an existing building; and the proposed change supports reinvestment in the Albemarle Road corridor. The Zoning Committee voted 7-0 recommend approval of this petition with the noted modifications.

1. Recreation for greenway, since this area is not located on the property to be rezoned.
2. Removed the commitment for the screening fence, as it is not located on the property to be rezoned.
3. Note 2 under Architectural Standards has been removed from the site plan.

Motion was made by Councilmember Autry, seconded by Councilmember Austin, and carried unanimously to approve Petition No. 2014-108 by U-Haul Company of Charlotte as amended.

Motion was made by Councilmember Autry, seconded by Councilmember Austin, and carried unanimously that this petition is inconsistent with the Eastland Area Plan, based on information from the staff analysis and the public hearing, and because the plan recommends retail for this area. However, this petition is found to be reasonable and in the public interest based on information from the staff analysis and the public hearing, and because the proposed use will be within an existing building, and the proposed change supports reinvestment in the Albemarle Road corridor.

The ordinance is recorded in full in Ordinance Book 59, at Page 236-237.

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ITEM NO. 13: ORDINANCE NO. 5558-Z, PETITION NO. 2014-112 BY MOHAMMAD R. BOLOURI, AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 1.23 ACRES LOCATED ON THE EAST SIDE OF SARDIS ROAD ACROSS FROM WILBY DRIVE FROM INST(CD) (INSTITUTIONAL, CONDITIONAL) TO INST(CD) SPA (INSTITUTIONAL, CONDITIONAL, SIRE PLAN AMENDMENT.

The Zoning Committee found this petition to be inconsistent with the South District Plan, based on information from the staff analysis and the public hearing, and because the plan recommends an adult day care facility as an institutional use. However, the Zoning Committee found this petition to be reasonable and in the public interest, based on information from the staff analysis and the public hearing, and because the proposed addition of medical office/research uses will have a negligible impact and the proposed uses are an extension of the existing adult day care facility with no exterior changes to the existing structure. The Zoning Committee voted 7-0 to recommend approval of this petition with the following modifications:

1. Noted on site plan the acreage of the parcel.
2. Noted the proposed zoning on the site plan: INST (CD) SPA.
3. Amended Survey Note 8 to indicate that the required minimum lot size in the institutional district is 15,000 square feet.
4. The parking tabulation provided on the site plan has been adjusted to reflect required parking for medical offices at one space per 200 square feet, and adult care centers at one space per employee plus one space per six adults.
5. Modified the site plan to note that the facility will have a minimum 1,500 square feet of adult day care use, and 3,500 square feet of medical office.
6. Site plan has been amended to specify a minimum 1,500 square feet will be devoted to the adult day care use.
7. Added language provided by Storm Water Services pertaining to the location and size of storm water management systems.

Motion was made by Councilmember Smith and seconded by Councilmember Mayfield to approve Petition No. 2014-112 by Mohammad R. Bolouri as modified.

Councilmember Smith said I just want to make one quick point to citizens that pursue re-zonings on your own; reach out to your District Representative in advance just so they have a little bit of knowledge about your project. I know the land use attorneys and folks that do this on a daily basis do so but for citizens that are going to take on this process, it is helpful to us at the dais if you do put in a little bit of proactive call so we can come out and meet with you at your site.

The vote was taken on the motion and recorded as unanimous.

Motion was made by Councilmember Smith, seconded by Councilmember Driggs, and carried unanimously that this petition is inconsistent with the South District Plan, based on information from the staff analysis and the public hearing, and because the plan recommends an adult day care facility as an institutional use. However, this petition is found to be reasonable and in the public interest based on information from the staff analysis and the public hearing, and because the proposed addition of medical office/research uses will have a negligible impact, and the proposed uses are an extension of the existing adult day care facility with no exterior changes to the existing structure.

The ordinance is recorded in full in Ordinance Book 59, at Page 238-239.

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ITEM NO. 14: ORDINANCE NO. 5550, PETITION NO 2014-114 BY STOR-ALL STORAGE FOR A TEXT AMENDMENT TO THE CITY OF CHARLOTTE ZONING ORDINANCE TO ALLOW AN INCREASE IN THE MAXIMUM FAR FOR WAREHOUSING WITHIN A COMPLETELY ENCLOSED BUILDING WHEN THE BUILDING IS MULTI-STORY.

The Zoning Committee found this petition to be consistent with the Centers, Corridors and Wedges Growth Framework, based on information from the staff analysis and the public hearing, and because the text amendment amends the maximum FAR in the I-1 and I-2 zoning districts for warehousing uses conducted within an enclosed building when the building has multiple stories. Therefore, the Zoning Committee found this petition to be reasonable and in the public interest based on information from the staff analysis and the public hearing, and because it meets the goals of ensuring a diverse, growing and adaptable economy and revitalizing economically changed business areas. The Zoning Committee voted 7-0 to recommend approval of this petition.

Motion was made by Councilmember Driggs, seconded by Councilmember Howard, and carried unanimously to approve Petition No. 2014-114 by Stor-All Storage.

Motion was made by Councilmember Howard, seconded by Councilmember Driggs and carried unanimously that this text amendment to be consistent with the Centers, Corridors and Wedges Growth Framework, based on information from the staff analysis and the public hearing, and because this text amendment amends the maximum FAR in the I-1 and I-2 zoning districts for warehousing uses conducted within an enclosed building when the building has multiple stories. Therefore, this petition is reasonable and in the public interest based on the information from the staff analysis and the public hearing, and because it meets the goals of ensuring a diverse, growing and adaptable economy and revitalizing economically changed business areas.

The ordinance is recorded in full in Ordinance Book 59, at Page 240-241.

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ITEM NO. 15: ORDINANCE NO. 5560-Z, PETITION NO. 2014-116 BY SPECTRUM PROPERTIES RESIDENTIAL, INC. AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 9.07 ACRES LOCATED ON THE NORTH AND SOUTH SIDES OF ABBEY PLACE NEAR THE INTERSECTION OF PARK ROAD AND ABBEY PLACE FROM R-17MF (MULTIFAMILY RESIDENTIAL) TO UR-2(CD) (URBAN RESIDENTIAL, CONDITIONAL).

The Zoning Committee found the proposed land use to be consistent with the Park Woodlawn Area Plan, but found the proposed density to be inconsistent with the Park Woodlawn Area Plan, based on information from the staff analysis and the public hearing, and because the plan recommends multi-family residential at up to 17 dwelling units per acre. However, this petition is found to be reasonable and in the public interest based on the information from the staff analysis and the public hearing, and because the increase in density is appropriate due to compliance with the residential design principals in the area plan, which includes but are not limited to avoidance of blank walls, orientation of buildings, internal pedestrian network, and increased yards abutting single family residential uses. The Zoning Committee voted 7-0 to recommend approval of this petition with the noted modifications.

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Motion was made by Councilmember Smith and seconded by Councilmember Howard, to approve Petition No. 2014-116 by Spectrum Properties Residential, Inc.

Councilmember Smith said I met with several of the residents of the existing complex and while I support this petition I do recognize that change may be difficult and that I do not take this land use decision lightly and I anticipate as the economy rebounds, especially in District Six we are going to have more petitions for repurposing of the existing facilities that are well past their useful life. I just want to point out and let the record reflect that the petitioner in this case, Spectrum Properties, added notes to the plan that will help with traffic mitigation issues for the neighborhood of Madison Park, which I think in the long term will be helpful and they also added some notes at my request for various construction issues that I think as development encroaches and gets more dense and gets closer to residential areas that will mitigate noise and some other things that could be problematic for the neighbors and I just wanted to get that on the record. I support the petition.

Councilmember Lyles said I really want to follow-up on Mr. Smith's comments; I think that this property is going to be a really good development. I think it also represents a developer commitment to assist where perhaps not required, and what I want to remind all of us is that as we are going through this change and as properties are being repurposed and redeveloped this community has made a strong commitment to affordable housing. We've done a lot of things in terms of working with the Charlotte Housing Authority for people that make below the 30% amount; we actually worked very well with people that make below 50% through a number of our partnerships, most particularly the one with the Charlotte Mecklenburg Housing Partnership. Where I think we are really going to have to look internally and figure out something that makes this work is where we have people making between 80% and 120% of the median income and the affordability of rental units for that population. We've done this every time we've identified these deficits; we've gotten the public policy around it and I hope that we will continue to do that because without workforce housing where will people that come here, that do most of our regular jobs, the things that we take for granted every day, where will they live, how will they get to work without having to have a car, how do we manage this for our community is really important. I really applaud the effort that we've made in the past and I look forward to the challenge coming up in the future.

Councilmember Autry said I plan to support the petition also, but it just puts a magnifier and a hot light on the issue of the disparity that we have with housing options in this community. It is something we are struggling with right now in the Housing and Neighborhood Development Committee and we are working on how to sharpen up the tools that we do have available to us to help address this issue and I look forward to continue to work on it, but I will be supporting the petition.

The vote was taken on the motion to approve the petition and was recorded as unanimous.

Motion was made by Councilmember Howard, seconded by Councilmember Smith, and carried unanimously that the proposed land is consistent with the Park Woodlawn Area Plan, but found the proposed density to be inconsistent with the Park Woodlawn Area Plan, based on information from the staff analysis and the public hearing, and because the plan recommends multi-family residential at up to 17 dwelling units per acre. However, this petition is reasonable and in the public interest based on the information from the staff analysis and the public hearing, and because the increase in density is appropriate due to compliance with the residential design principals in the area plan, which includes but are not limited to avoidance of blank walls, orientation of buildings, internal pedestrian network, and increased yards abutting single family residential uses.

The ordinance is recorded in full in Ordinance Book 59, at Page 242-243.

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ITEM NO. 16: ORDINANCE NO. 5561-Z, PETITION NO. 2014-118 BY COTSWOLD PARTNERS, LLC AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 2.21 ACRES LOCATED ON THE EAST SIDE OF RANDOLPH ROAD BETWEEN GREENWICH ROAD AND NORTH SHARON AMITY ROAD FROM B-1 (NEIGHBORHOOD BUSINESS) TO MUDD-O (MIXED USE DEVELOPMENT OPTIONAL).

The Zoning Committee found this petition to be consistent with the South District Plan, based on information from the staff analysis and the public hearing, and because the plan recommends retail uses for the subject property. Therefore, this petition is found to be reasonable and in the public interest based on information from the staff analysis and the public hearing, and because the proposed site plan commits to details such as elevations and design standards, as well as transportation improvements; and the proposal is for infill redevelopment, which minimizes the impacts to the natural environment. The Zoning Committee voted 6-0 to recommend approval of this petition with the noted modifications.

1. Four-sided elevations of the proposed building have been provided.
2. The optional request for increased ground mounted signage has been removed.
3. A note has been modified to clarify that only one principal building will be on the site.
4. Optional request "F" has been removed from the site plan.
5. A detail of the loading dock screen wall along Colwick Road has been provided with the elevations.
6. A detail of the street wall has been provided within the elevations.
7. The request to allow all existing building, parking and uses to remain under this plan has been removed.
8. A note has been added that the ground floor elevations along Randolph Road will be treated with a combination of fenestration, clear glass, prominent entrances, changes in material, building step backs and landscaping.
9. A note has been added that the maximum allowed square footage includes the building but not the parking structure.
10. A note has been added that a concrete pad will be provided for a future bus pad.

Motion was made by Councilmember Howard and seconded by Councilmember Fallon, to approve Petition No. 2014-118 by Cotswold Partners, LLC as amended.

Councilmember Howard said since Ms. Kinsey is not here; in a note that she sent to us she made a point of pointing out that the petitioner and the neighborhood had worked really well together to make this a really fine development and I wanted to put that on the record that she said that since she is not here.

Councilmember Smith said some of you may remember I had some concerns and I mentioned them at the hearing regarding access and stop lights and traffic flow through that area. Mike Davis of C-DOT has assured us that we have a long-term plan that I think it may be five years; three years, but it is on the horizon that will help with the connectivity, help ease the burden for folks who are trying to get through that area. I know the Cotswold Shopping Center and this project will work together collaboratively at some point to hopefully get a stop light in, therefore I'm going to support the petition.

Councilmember Lyles said this petition I think caused all of us to pause for a moment. I went over when we had the public hearing and drove around the community during the time that Cotswold School was closing and had an opportunity to talk with the neighbors about it. I went back over this week-end and drove around the neighborhood again and I have two things that I think are really important and my support of this petition. The first one is probably just a general comment; when we have these areas we are going to have more traffic congestion, we are going to see it happen and we are going to work as hard as we can to mitigate that and I really do want to thank Mike for actually taking all those e-mails and calls that I asked him to take to talk with people about the plan and how this works. It is just a simple fact that we've got in a number of our neighborhoods, South Boulevard where we've got that great development going on, Cotswold, South Park; we have congestion and it is going to be with us. The second point that I would like to make and this has
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been the hardest for me; I really want us to determine how we can connect with Charlotte Mecklenburg Schools on how we design schools for traffic flow and congestion. That is just as important, what occurs on their property as what is occurring on our public streets and I would encourage the Planning staff to reach out, not to necessarily the school principal, very important how the individual school works, but actually as an institutional administrative effort how do we design schools so we can appropriate get schools that are walkable schools where you are going to have parents that drive as well as bus traffic. They are multimodal institutions and we need to plan for that.

Councilmember Phipps said I would just like to amplify what Ms. Lyles just said about the schools. I want to commend the petitioner for their proactive engagement with CMS to try to find a solution and I would encourage officials at CMS to take more opportunity to offer comments on petitions that are close to school facilities and just comment more than just on capacity type issues of how many students a particular petition might create and just go a little bit further and be a little bit more creative to see if we could solve some issues around transportation stacking and those kinds of things that make for a safer more pedestrian friendly and student friendly environment.

Mayor Pro Tem Barnes said I would commend Mr. Jeff Brown's clients for actually making substantial off-site infrastructure improvements that they ordinarily would not have to make and chose to do it in order to make the project fit within the community, so thank you to your clients for doing that including I believe in the Wicks Neighborhood and on the CMS property. We appreciate you all stepping up to do that.

The vote was taken on the motion and recorded as unanimous.

Motion was made by Councilmember Howard, seconded by Councilmember Fallon, and carried unanimously that this petition is consistent with the South District Plan, based on information from the staff analysis and the public hearing, and because the plan recommends retail uses for the subject property. Therefore, this petition is found to be reasonable and in the public interest based on information from the staff analysis and the public hearing, and because the proposed site plan commits to details such as elevations and design standards, as well as transportation improvements and the proposal is for infill redevelopment, which minimizes the impacts to the natural environment.

The ordinance is recorded in full in Ordinance Book 59, at Page 244-245.

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ITEM NO. 17: ORDINANCE NO. 5562-Z, PETITION NO. 2015-010 BY THE SALVATION ARMY AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 2.6 ACRES LOCATED ON THE WEST SIDE OF STATESVILLE AVENUE SOUTH OF OLIVER STREET AND EAST OF SPRATT STREET FROM O-6(CD) (OFFICE, CONDITIONAL) TO MUDD-O (MIXED USE DEVELOPMENT, OPTIONAL).

The Zoning Committee found a portion of this petition to be consistent with the Central District Plan based on information from the staff analysis and the public hearing, because the plan recommends institutional uses for the subject property. Therefore, this petition is found to be reasonable and in the public interest based on information from the staff analysis and the public hearing, and because the proposed use will not increase the exterior size of the building; and the proposed request will allow the existing institutional use to continue to serve the needs of the community. The Zoning Committee voted 6-0 to recommend approval of this petition with the noted modifications.

1. The proposed uses on the site plan have been listed as a homeless shelter, daycare, and administrative offices.
2. The maximum square footage has been modified to 50,000 square feet.
3. A note has been added specifying that the expansion area is interior to the existing building.
4. The amount of open space to be provided has been labelled on the plan.

5. A note has been added that the existing 69 parking spaces provided on site and along the project frontage on Spratt Street will satisfy the parking requirement

Motion was made by Councilmember Austin and seconded by Councilmember Driggs, to approve Petition No. 2015-010 by the Salvation Army as modified.

Councilmember Howard said I wanted to commend District Rep, Mr. Austin for taking the lead on moving this one forward. We know that this is that season when we need to be able to house as many women and children as we can so I commend the Salvation Army as well as the District Rep for making this happen. Hopefully they will be able to help some families this season.

Councilmember Austin said right now they are ready to go.

The vote was taken on the motion to approve and was recorded as unanimous.

Motion was made by Councilmember Austin, seconded by Councilmember Fallon, and carried unanimously that this petition is consistent with the Central District Plan based on information from the staff analysis and the public hearing, because the plan recommends institutional uses for the subject property. Therefore, this petition is found to be reasonable and in the public interest based on information from the staff analysis and the public hearing, and because the proposed use will not increase the exterior size of the building and the proposed request will allow the existing institutional use to continue to serve the needs of the community.

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HEARINGS

ITEM NO. 19: HEARING ON PETITION NO. 2014-100 BY CHARLOTTE MECKLENBURG PLANNING DEPARTMENT FOR A CHANGE IN ZONING FOR APPROXIMATELY 15.50 ACRES LOCATED ON THE SOUTHEAST CORNER AT THE INTERSECTION OF WEST 30TH STREET AND CHICK GODLEY ROAD FROM UR-3(CD) (URBAN RESIDENTIAL, CONDITIONAL) TO TOD-M (TRANSIT ORIENTED DEVELOPMENT – MIXED USE.)

Mayor Pro Tem Barnes said I believe what we are doing tonight is closing the public hearing, but we do have two speakers.

Tammie Keplinger, Planning said the public hearing was opened in November and continued to tonight's meeting in order to address some issues that were heard at the first part of the public hearing. Those issues related to the fact that this site is a conventional request, not conditional and since that time staff has worked with the property owner's agent and we believe that they will be coming back in with a conditional rezoning. Due to process issues, what should happen is that the public hearing be closed; it will go to the Zoning Committee next week. The Zoning Committee, if the petitioner's agent has submitted an application by that time, will recommend a new public hearing on a conditional rezoning and then that will come back to the City Council in February. At that time the date for the new public hearing would be set.

Mayor Pro Tem Barnes said with regard to the two speakers, do we want to have them speak on this petition even though it is going to change substantially?

Ms. Keplinger said it is a public hearing so I will look to the Attorney. I will say that one representative is from the NoDa Association and I talked with Hollis Nixon today, who could not be here tonight, and she indicated that they are in favor of moving forward with it as this request is a conditional petition. I think Kevin would like to tell you that.

Mayor Pro Tem Barnes said the question I have is because it is going to be a conditional petition; that hasn't occurred yet but the elements of a conditional petition have not been added to this plan.

Ms. Keplinger said no sir, they have not. We will have to have a brand new public hearing, community meeting and it is like starting the process over again so they will have an opportunity to speak to all of those issues.

Mayor Pro Tem Barnes said so from a practical perspective do our two speakers, one for and one against know what they are even speaking for or against? Do you see my point?

Ms. Keplinger said yes, I assume they are going to speak on the current petition which is a conventional petition.

Mayor Pro Tem Barnes said which will change, but if they want to speak they can.

Tony Kuhn, 427 Shasta Lane, said I do think this is a very important procedural issue for the City of Charlotte moving forward with where we are in our growth cycle with development and where we are with where we want to be as a City. I think it is real important that everyone hear some of the issues that have come up through this rezoning petition. I am working with the seller of the property, I am actually trying to invest and purchase the property and am interested in doing a development and working with developers and investors that want to invest in transit oriented properties and developments. The current entitlements are not something that we have been able to engage or get investor interest to perform. I think this is a very important piece of the puzzle for North Tryon, for our greenway development, for NoDa and so I wanted to speak a little bit about that process, what our policy is and how that impacts investment in these areas moving forward and give a practical example of how that impacts my commitment and investment to a project like this.

I wanted to report that we did have a meeting with the neighborhood this month that I thought was very productive. I support, as I mentioned before, their fervent protection of NoDa and that is the reason I want to be involved and invested and spent my time in investing in NoDa because of that commitment to their community. I wanted to just communicate a few things on why policy wise I think there needs to be some consideration on just clarity for people like myself and other investors who are interested in doing this type of project. The first report is that we had a good neighborhood meeting and the second to report is that from the previous rezoning there was a letter written by the NoDa Neighborhood Association to the City about that previous rezoning and from their letter I'll read from that letter from the initial rezoning they said, and this is quoted from the letter to Pat McCrory in 2008. "With the coming light rail corridor we need sensible locations for increased density and this is an ideal location with no impact on existing single family residential areas or historic properties. We are very pleased with the dedicated greenway and the tree save within this zone. The NoDa Homeowners Association is fully committed to being part of a regional greenway system; this project provides a key connection point." All those things are extremely valid I think; having this entitled to a transit oriented development would allow improving and accomplishing those things that they wished for in the first rezoning.

A little bit later on in the letter to the Mayor on the previous rezoning they say "we are still a little concerned about the suburban feel of the site plan provided. We are now more aware of the constraints that make a more urban design difficult, however any ideas that could allow for more connectivity, more uniform building layout, less surface parking lots or other such characteristics that would make this project a better fit for our neighborhood would be welcomed." I guess I'm saying all of that to say the TOD M ordinance that this was proposed to rezone to would allow us to accomplish all of those different things that were not accomplished in the first rezoning. Furthermore it was exactly in line with what the Planning Commission put forth to the City and the investment community that that was the recommended land use for this parcel for all those reasons that were mentioned in this letter. So we followed that procedure to get it rezoned and we had investors that are ready to commit and work on this project that is going to give better connectivity, less surface parking and really orient toward the greenway as opposed a more suburban type project and now procedurally we are going through a process that started last September or August with the application and then following the procedures got deferred to this open committee and now it is deferred further to basically just start all over. Contractually that creates issues on the investment side; it is not the end of the world by any means, but clarity wise and practically wise it is a very clear example how policy impacts investment and in this case I think it would have yielded a much better project than we have currently so it is almost like we are throwing the baby out with the bathwater. I don't by any means think that what we have now is a perfect system but it is at least a system with clarity and I think it is an iterative process and we are on the a trajectory with Charlotte
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because the investment community understands that process and we wanted to make sure that there is moving forward something that is equitable and followable by people who would like to invest in these type projects. That is why I wanted to come forward and make a few of those points that everyone understood how that impacts this project and the more I think that maybe that land use around transit stations needs to be prioritized and be worked through with also full respect to the NoDa Neighborhood Association and their commitment to the neighborhood.

Kevin Sutton 908 Essex Street said I am a representative of the NoDa Neighborhood and Business Association. We here to speak against this rezoning, not necessarily because of the project itself, but we are having some problems with the procedure that the City is using right now to go in and blanket rezone a lot of these transit properties to TOD. We've received several in the last few weeks that go in and there is no site plan, there is no developer identified; there is nothing really for us to comment or anybody to have interaction with. In our current policy that we just adopted is that we are going to oppose all of these TOD rezoning's until we have some assurance that once the developer gets the rezoning they have some incentive to come back and get community input into the development. We've had several developers that once the rezoning has happened they don't return our phone calls. Fortunately, that is not the majority of them but there are those out there and with as much property as we have that is going to be an issue for us in the past. We have a pretty thorough process where we review these projects, we have interaction, we have community meetings and right now there is nothing to base any decisions on so that is really where our opposition to this and the other projects are.

I know that Hollis has been working with the City staff and we appreciate their work to try to resolve these issues. That is our current position on all of these. This one particularly is probably exactly what the TOD zoning is designed for, high density property, it is on the outskirts of our central business district, it fits really well into our neighborhood vision plan that we have. There are a couple others that came up that are adjacent to residential areas that were very questionable from our standpoint and a couple of those have impacted the historic mill houses along North Davidson Street and we don't think any of those should be TOD so we are faced, as a neighborhood right now, with approving rezoning's that we don't know what the rezoning is for and that is where our position is right now.

In rebuttal Mr. Kuhn said I would just like to say that I support kind of their position on wanting more commitment and more input into the process especially as it relates to the historic part of the NoDa Neighborhood which we need to preserve. I want to add for everyone's information, I'm having conversations with people in the County Administration who feel that we could create a document or a legally binding thing that would preserve the greenway and tree save dedication that has worked so hard by the NoDa Neighborhood Association and any new rezoning's and I think that is very important for this rezoning that the County and the City retain that dedication ownership which was approved through the previous rezoning.

Councilmember Howard said this is for the neighborhood representative. It is kind of one of those philosophical things so since you took a philosophical stance on it, essentially what you are saying that is if it is zoned anything right now you would rather know what that is than have TOD which kind of does have it limits. I think the point of doing this, not blanket rezoning, but support of TOD is to make sure that we have that type of development around our stations. I'm concerned that if the neighborhood starts to oppose them all if they don't get more details then you could wind up with whatever is on the ground now, which I'm sure is a lot of industrial and other things in your area right now.

Mr. Sutton said we are not opposed to TOD. As a matter of fact for the majority of the vacant parcels in our neighborhood TOD is the appropriate zoning that we want. The problem is we are not sure how we get input into the development process once that rezoning is done. Right now we go in and we keep track of the website we are able to identify projects that are coming up, we have the opportunity to get developers to add notes on the site plans and stuff to address our issues. Once they get the rezoning our question to the City is where does public input come in, what forces the developer to come to the neighborhood and have a discussion with us. We are pretty easy to get along with.

Mr. Howard said the TOD zoning comes with a lot of restrictions already. I just want us to be careful not to send the word to developers that it is going to be harder to do it in NoDa because you still want TOD on a majority of the land around the stations and that is how you get the density that will support a transit station.

Mr. Sutton said that is why we think that there is a way for the City staff to work it out so that our concern is taken care of on these first ones so the rest will be a lot smoother. That is what we are asking for.

Mr. Howard said I just want to make sure that maybe staff circle back with NoDa to explain exactly, and maybe you know this already, exactly what TOD will allow and won't allow. I still think that is better a lot of times than what is on the ground and what people can do by right. That is my concern.

Mr. Sutton said we agree.

Councilmember Smith said I just want the record to reflect that I think the petitioner here followed the system that we have set up and ultimately was penalized, although some maybe extenuating circumstances with the greenway, but ultimately they followed the system as was charted by the City and now their development is getting delayed yet again and there may be a larger policy decision that needs to take place regarding the process. I just don't necessarily think it's fair that this petitioner followed the process and now they are subsequently multiple months out from trying to do something. I welcome the larger policy discussion at a future date on how we may make this process more feasible for development in neighborhoods but I want the record to reflect that I think they did everything we ask of them and now he is eight months out.

Mayor Pro Tem Barnes said you are correct, he did do what was asked, so did our staff, and they all got caught up in more deep thinking by the Council.

Motion was made by Councilmember Howard, seconded by Councilmember Driggs, and carried unanimously to close the public hearing.

ITEM NO. 21: HEARING ON PETITION NO. 2014-110 BY UNIQUE SOUTHERN ESTATES, LLC FOR A CHANGE IN ZONING FOR APPROXIMATELY 4.54 ACRES LOCATED AT THE SOUTHEAST CORNER OF THE INTERSECTION OF THE PLAZA AND BELVEDERE AVENUE FROM R-5 (SINGLE FAMILY RESIDENTIAL), R-5(HD-O) (SINGLE FAMILY RESIDENTIAL, HISTORIC DISTRICT OVERLAY) AND B-2(CD) (HD-O) (GENERAL BUSINESS, CONDITIONAL, HISTORIC DISTRICT OVERLAY) TO MUDD-O (MIXED USE DEVELOPMENT, OPTIONAL) AND MUD-O (HD-O) (MIXED USE DEVELOPMENT, OPTIONAL, HISTORIC DISTRICT OVERLAY).

Mayor Pro Tem Barnes declared the hearing open. He also acknowledged Billy Maddalon a former colleague.

Tammie Keplinger, Planning Manager said just to orient everyone if you are not familiar with it, it is off of The Plaza at Belvedere Avenue; the request is actually for property that is zoned B-2(CD) which is within the Plaza/Midwood Historic Overlay and that is known as the Van Landingham Estate. There are two smaller parcels that are zoned R-5, one in the historic district and one outside of it which are also part of this rezoning.

You can see from the aerial the main home of the estate. In 1988 there was a rezoning petition that was denied for this piece of property. It was considered a significant increase in the activity on the site and what they were requesting at that time was to add 14 rooms for overnight lodging, private functions for up to 400 guests, 15 special functions per year for up to 88 guests. That was denied because of the significant increase in activity; in 2000 there was a rezoning that was approved for this property that allowed events with up to 320 guests as a standard with only one time a year for the guest number to exceed that list. One of the important things I think to note on this petition is that it removes any restrictions about the limitations on attendance for this facility.

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The petition adds a spa to the existing estate home; it allows 19 single family attached residential units and a private swim club. This location is the existing home, the swim club is here, this would be the pool and this would be the pool house and that is to contain maybe a concession stand, locker room, showers, and probably an office and storage but that is not going to be a place for people to gather, it is just an accessory use. There are 19 units that are attached that are located in these areas. It allows the continued use of the estate and the carriage house for a nine room hotel and the estates and grounds for the special events that currently are permitted. There are asking for several optional requests that are associated with this rezoning, parking between the buildings and the street, for the existing planting strip and sidewalk to remain and for the hedges located in the setback to remain.

I'll show you the future land use plan and this is the Central Plan and it was adopted in 1993. You can see the Van Landingham Estate and the two properties that are proposed to be rezoned. The Central District Plan recognized the Estate as a Historic Landmark and the intent of the previous rezoning from 2000 was to preserve the historical character of that landmark so the Plan actually recommends B-2(CD) for a portion of the site, single family residential uses for a portion of the site which is zoned R-5 and then the general development policies recommend more than 17 units per acre. The continued use of the hotel and the events facility with the addition of the spa will be consistent with what the Central District Plan calls for however, the pool and the multifamily use are inconsistent with the Central District Plan.

When we look at this petition, staff does not recommend approval of it in its current form. It is inconsistent with the recommendations that are set forth in the Central District Plan; there are site design issues that are proposed, especially about the residential development. I will go back to the site plan to show you that the residential development, the majority of them face internally with the garages facing the existing single family structures. It is also about the building mass and the articulation which we believe is inconsistent with that of the surrounding neighborhood. In addition there are limitations on the parking that staff is concerned about. With no limitations on the number of people that can attend, the combination of the residential dwellings, the guests at the hotel and the guests attending events may exceed the parking that is provided. In terms of the parking that they are providing I will note that they are providing 160 parking spaces; 88 of them are on site, 48 are off-site and then they are counting 24 on-street spaces. With that again staff does not recommend approval of the petition in its current form and I'll be happy to answer any questions.

Mayor Clodfelter returned at 7:09 p.m.

John Carmichael, 101 North Tryon Street said I represent the petitioner; with me tonight are Billy Maddalon of the petitioner and Brian Jenest and Jacob Bachman of ColeJenest and Stone. Billy will address you shortly and Brian and Jacob are available to answer questions. We also have residents from the Plaza/Midwood Neighborhood who will also speak tonight in favor of the rezoning request.

The site contains about 4.5 acres and is comprised of the Van Landingham Estate and two adjacent single family parcels. The estate site and one of the single family parcels are located in the Historic District and the Van Landingham Estate site is a local Historic Landmark. Currently the Van Landingham Estate is utilized as a hotel with a maximum of nine guest's rooms and is a conference, meeting and event facility. The purpose of this request is to allow the development of up to 19 for sale townhomes along the perimeter edges of the site and a private neighborhood pool and swim club operated on a membership basis and to maintain the existing estate structures for the continued use as a nine guests room hotel and a conference, meeting and event facility and possibly a spa use. This is a unique development proposal on many levels because it is a Historic Landmark. The Historic Landmarks Commission must approve the site plan and the building elevations for the pool house and the townhomes. The Landmarks Commission has approved the site plan and they will be considering the elevations at its February 9th meeting. Because it is in a Historic District, the Historic District Commission must approve the site plan and the elevations in order for the petitioner to have the ability to develop the proposed project. The petitioner will not seek a final decision on this rezoning request unless and until it gets decisions by those Commissions on the site plan and the building elevations. If it is approved then the petitioner would add the building elevations to the conditional rezoning plan that is before you tonight. The Historic Landmarks Commission and Historic District Commissions will approve the project only if they determine that

the project retains and preserves the historical character of the property and the District Commission will also consider whether it is compatible with the Historic District as a whole. Once again the main house and the carriage house will be preserved as well as the ...; you have townhome units along the southern portion of the site, they would be served by an alley and then you would have nine townhomes along the eastern edge of the site. These would be rear loaded garages; these three units would actually have drives that access Thurmond Place, these units would not have drives that access Thurmond Place; the swim club would be located between the main estate home and Belvedere Avenue. There would be a four-foot screen shrub here to screen the pool from Belvedere Avenue; a holly edge would be retained along this portion of Thurmond Place to provide screening of the townhomes. A goal of this rezoning request is to develop the site in a fashion that will preserve the existing structures, maintain a large amount of open space and preserve the historic character of the site. We think this plan accomplishes those goals.

Ms. Keplinger is not aware of this but we did meet with the Planning staff today and I think we've gone a long way to resolving the outstanding site plan issues. Once again elevations are not a part of this petition, but they are being closely scrutinized by Landmarks and District and assuming we get the approval of those Commissions, and I'm not assuming it for the purposes of this conversation, they will be attached to the conditional rezoning plan and made a part of the rezoning plan such that they would be a condition. We have agreed today to limit the number of attendees at an event at the Van Landingham Estate of 325 people as it is required under conditional zoning that is in place today except for one event; that condition would not apply to the swim club because the swim club could have more than that from time to time on a Saturday maybe swimming at the pool. I would for Billy Maddalon to come and address you now.

Billy Maddalon, 2010 The Plaza said I have had the pleasure of owning the Van Landingham Estate for the last 15 years. I'm a lifelong resident of Plaza/Midwood. The Van Landingham Estate is not an economic success; it doesn't make money. We've been fortunate enough to own the Morehead Inn all this time and the Morehead Inn subsidizes the operation of the Van Landingham Estate and of course that is getting ready to change for us. About five years ago members of the community approached me about the possibility of hosting a community pool at the Van Landingham Estate site. It occurred to me at that time in the midst of a very bad economy that it made sense to hire someone that I trust very much, Bryan Jenest with Cole Jenest and Stone to help me do a master plan for the property. The goal of the master plan was to figure out how to preserve this historic estate; it is a national land mark and it is also a goal of mine to continue to live in Plaza/Midwood and have happy neighbors and to make the estate a continued community center and a vital part of really the finest community in Charlotte. We love living there and I will tell you that in the room tonight you have the current PM&A Board President and you have the last five PM&A Board Presidents in the room with you tonight. They have all worked with us diligently over the last five years to bring you bits and pieces and to bring you what we have tonight. We are proud of it and we look forward to gaining your support and to continuing to work with staff to work through any issues that they might have.

Adam Richman, 2320 Fort Street said I was Board President during the time this petition came forward and my message to you is that this project was made better by Billy's interaction with the Board, with the neighborhood and obviously with Landmarks and District. It has also been better by Billy's commitment to the neighborhood. I want to impress on you the way this has been conducted because this doesn't happen all the time when we have someone that works in this iterative way to collaborate and be transparent in their development. Billy brought this to my attention last spring that he had an Estate Master Plan on the books and he met with our Board. This happened three times; we went back and forth and gave him ideas and he came back with solutions. After it went to petition we had four more meetings with the neighborhood where we got their feedback, rolled that up to Billy. We then had two really large meetings with the neighborhood including Billy and his team so that they could directly address this. All of this made a better plan and this is all actually before the official kick off so you can see as this transitioned from early fall to January 6th, our last meeting, that the mood and concerns of residents, who had some concerns and I respect that those got better and the project plan got better and for that I think this is just more than Billy's plan at this point; it is something that we've all collaborated with so for that I hope you do vote in favor of this.

John Northey, 3140 Country Club Drive said I'm an attorney; I'm a Midwood resident, I have studied the plan carefully and I'm strongly in favor. I think it is excellent based on my personal and professional experience. I'm a lifelong inner City resident and property owner and activist of seven to eight such neighborhoods including Elizabeth, Myers Park, Dilworth and I have done legal work many times on behalf of preservation efforts including on behalf of Myers Park Homeowners Association. I'm particularly proud despite how long ago it was that I worked with Patsy Kinsey on Citizens for Preservation that kicked off the preservation of Fourth Ward. I have spent decades of my life living on thoroughfares, Sharon Road, Queens Road West and much of my time on Dilworth Road. I have lived directly across from and very near four major churches, numerous other churches, three elementary schools, two major City parks so I know about event parking, daily parking and all the coming and goings of urban life and that is just the way it is and I take this use over any of those. I'm a long-term member of a community swim club and I understand the importance of such a facility and amenity, not just to the swimming that goes on but the community that goes on because of the existence of such facilities. Now that I live in Midwood I'm very excited about that prospect and for 20-years I was a very close neighbor, just across a couple backyards of the Morehead Inn itself so I can unequivocally say that Billy Maddalon is incredibly sensitive and mindful and respectful neighbor who beat the heck out of all the churches and the schools and the City parks in being accommodating of neighborhood and respectful. The last thing I will say that is on my professional experience is that of the preservation and enhancement of any of the neighborhoods and historic properties requires constant accommodation and compromise. You can't micromanage it and you've got to periodically take a reality check or you will lose a valuable asset. I think a lot of compromise and accommodation has already occurred here and I think the plan is an excellent one as it now stands.

Thomas Egan, 1224 The Plaza said I currently sit on the Historic District Commission; I'm the past President of Plaza/Midwood and I live two blocks away from this particular property. I've been working with Billy for approximately four years on bringing this plan to fruition; mostly on the pool side. I think a pool is a great addition to our neighborhood plus this proposal is I think the best way to keep this property and keep the most historic pieces of this property. If you will notice the gymnastic that they went through to keep heritage trees and historic pieces on this piece of property, I think it is wonderful.

Councilmember Kinsey arrived at 7:20 p.m.

Cecil J. Krimminger, 1733 Belvedere Avenue said I reside at 1733 Belvedere Avenue in a home that has been in my family since the 60's and one that I grew up in as a teenager. You might recall of my letter which I have mailed to each one of you about my concerns as to why this does not work for the proposed rezoning of the Van Landingham Estate. I have worked on the petition drive and many of these people are present who signed the petition against this rezoning and if they are present would acknowledge themselves and raise their hand that would be great.

We will now continue our presentation why this does not work. You will hear from Julie Muir, and Jeff Brantner who will present some visuals along with comments addressing our many concerns. Don Rawlins will make our closing comments.

Julie Muir, 1729 Belvedere Avenue said I am a neighbor and homeowner at 1729 Belvedere Avenue. I have also sent letters to every member of the Council and I want to thank Mayor Pro Tem Barnes for acknowledging my letter. Pressing on with the point of why this does not work; I will show you the pictures that we have taken to show you the density and the traffic problems that we've encountered today without the additional new development that is proposed. That is the 19 townhomes and the swimming pool. This is just our neighborhood without all of that. Jeff will speak next on why this does not work and if I could please cue my videos; I have three videos to show.

Jeffrey Brantner, 1725 Belvedere Avenue said I am a resident on Belvedere Avenue across the street from the Van Landingham and I'm also a licensed architect for about 30-years of professional practice. I'm here to make two basic points, the first being the entire proposed development of a private swim club and the 19 attached townhomes is not a compatible use with the surrounding early 20th century single family home neighborhood. The Van Landingham had to go through, once it went from residential to business, to be rezoned, the 1998 City Council denial of the additional 14

guest rooms and additional special events I think presumably starts to talk about that the use is somewhat incompatible and to increase that use just makes it even more so incompatible. The current development proposal requires an even less compatible MUDD zoning designation and the proposal itself is many times more dense, invasive and problematic for the neighborhood than what was proposed in 1998. The second point I would like to make is that the existing property is also too small to effectively accommodate such a large dense and automobile dependent development. There are a number of important points I can make to support this, but for the sake of time I'm only going to be speaking about zoning issues of parking, traffic congestion and personal safety. The proposed development cannot fulfill the mandated requirement of 160 off-street parking spaces within the property limits and is looking to locate 45% or that parking requirement within the neighborhood. One part of this is through on-street parking and while this can be allowed by the City on a case to case basis, presuming redistricting MUDD is designated specifically excluded from this consideration for a pretty good reason.

Another part would be through the development of a remote vacant lot currently without curb cuts a block and a half up the Plaza from the Van Landingham or remote parking can also be allowed on a case to case basis to assist in parking. The proposed lot is fronted in part by a municipal bus stop and is located 1,600 feet away from the Van Landingham, or four times the allowable maximum distance of 400-feet stipulated by the City. The proposed development will also negatively impact all of the adjacent streets through increased traffic and congestion and will create unsafe conditions for neighbors and visitors alike. Belvedere Avenue is a municipal bus route and a major traffic feeder street for the entire neighborhood with an average of about 2,400 cars traveling it daily. Although it is a 60-foot wide right-of-way the actual curb to curb widths are less than the City mandated width for two travel lanes and double loaded parking. Even single loaded parking can sometimes cause congestion when the buses are coming through. Likewise Thurmond and Nassau Streets are tight residential streets with little room for heavy on-street parking or traffic from the proposed additional 38 residential vehicles. More than an annoyance, this becomes a personal safety issue. Swim facilities, especially ones that hold competitions, should have dedicated off-street drop-off areas to safely deliver children to the pool. This facility does not have the room for one and both and the pool house themselves have been squeezed down to the bare minimum size just to fit on the proposed site. Imagine the scenes that are playing on the videos above that they are now including swim meet children being dropped off on the street, hurrying towards the swimming pool from on-street parking or the remote parking area itself. A private swim club at this location is a very bad idea.

Donald Rawlins, 2100 The Plaza said I live at 2100 The Plaza which is also known as the Bishop John C. Kilgo House at the corner of Belvedere and The Plaza and is also listed in the National Register of Historic Places as is the Van Landingham. The Van Landingham is the first house built in the Chatham Estates subdivision in the early 1900's and the Kilgo House is the second house built in that neighborhood. The original plan was to build a new suburban streetcar district for the City of Charlotte with the grand homes of the grandeur of Myers Park. It was a failed development and it took the next 25 to 30-years to fill in the entire neighborhood as originally planned. Its name was changed to Plaza/Midwood and the original Plaza/Midwood as legally defined is along The Plaza extending over to Thomas Avenue. Plaza/Midwood is not the neighborhood as defined by the Neighborhood Association; that is not a legal definition and they call their area a residential area of 3,000 homes. The people who are affected here are those who live in the legally defined Historic District and we are talking about the house that is sitting in the center and the force of energy that radiates through the entire Historic District. To make changes like this to add the density of the new townhomes and to add frankly an olympic size pool along Belvedere would drop a black hole in the center of that Historic District and change the entire character of a residential district that within the Historic District has no homes that are not separately standing with a yard.

You've heard from the previous three speakers that the word inappropriate comes up over and over again; townhouses are not appropriate, an olympic size pool is not appropriate, the density of the use is not going to be appropriate, the traffic burden is not going to be appropriate and we haven't even addressed the amount of noise that will be continuous, not just an occasional wedding. As we are sitting on our back porch drinking a glass of wine at 9:00 we will hear a cheer go up and that makes you feel good. You are going wow, somebody else got married, that is great, but now we are going to start at 9:00 in the morning every day and go to 9:00 or 10:00 at night every night and that is just asking too much of a very mature settled residential neighborhood.

In rebuttal, Mr. Carmichael said just to respond to a couple of issues; when we met with the Planning staff today we agreed that we would provide a note that says when a swim meet is being held, and there is only anticipated that there will be three or four a year in the summer, that when a swim meet is being held there could be no activities at the estate. This will open up any parking spaces on the estate property other than the parking spaces dedicated to the townhomes; it would open up those spaces for use by folks going to the swim meet. There would also be a note that says for swim meets there will be one parking attendant and one police officer. There is already a note on the plan with respect to events at the estate proper, that when there are a certain number of attendees you've got to have two parking attendants and then above 200 attendees you have to have two parking attendants and a police officer. Those things I think were done to hopefully ease some concerns about parking; there would be 88 spaces on site; there would be off-site parking spaces in a lot that is owned by Mr. Maddalon. When we met with staff today they did not want us to commit to a specific location, just a note that says you will have to have off-site parking spaces that meet the requirements of the ordinance. That is something that we are going to add to the plan. In terms of compatibility with the Historic District, the Landmarks Commission and the District Commission are going to look at that and they are going to scrutinize it and if they deny the application of Mr. Maddalon then there won't be a development in any event so those bodies will certainly look at that.

Phillip Gussman, 2008 Winter Street said I'm the current President of the Plaza/Midwood Neighborhood Association and we know that not everyone in the community loves this plan but one thing I'm 100% sure of is that the community had worked with Billy and the developers to make this plan something that works for the vast majority of the neighborhood.

Councilmember Fallon Billy how many acres is the whole place?

Mr. Maddalon said the Van Landingham Estate proper is about 4 ½ acres; if you add the two parcels that are adjacent to it I believe it brings it to about five acres.

Ms. Fallon said are you going to use those for part of it?

Ms. Maddalon said yes ma'am both of those parcels would be used primarily to house the new single family attached townhomes.

Councilmember Austin said you had restrictions around swim meets and not having events at the Van Landingham Estate while those are going on on a daily basis. What kind of impact are you talking about with the swim club itself?

Mr. Maddalon said the only reason that I ever agreed to entertain the possibility of having a swim club on the property is because the swim club is only going to operate during the summer, essentially Memorial Day to Labor Day and during the summer unfortunately the Van Landingham Estate is dead. It is too hot to get married and have parties outside and of course our business is go on vacation and don't have meetings and conferences and retreats so the Estate, we would love to have conflict, but that is a pretty easy commitment for me to make because in the summer time we just don't have a lot of business that we would have to turn away because of the pool. The swim meet issue concerns me more than the daily activities of the pool; my understanding is that swim meets would only happen maybe two or three times a summer or a year and that they only happen on a Wednesday night and a Saturday morning, again two times when even if the Van Landingham Estate had something scheduled that day it wouldn't be going on at that moment. It is entirely possible that we won't have to have any swim meets at the pool; I just don't know exactly how that works.

Mr. Austin said did you answer on a daily do you know how many you would have just in general, not the swim meets? I know you said during the summer but even during the summer daily what kind of impact are we looking at?

Mr. Maddalon said there was a consultant that was hired to do a study and the study said that the pool could accommodate by size, by county code etc. up to 500 members. We've opted to keep it at 420 members. We don't know how many would be at the pool on a daily basis, my guess is the

week-ends would be busier and the evenings would be busier than the week day. We will learn as we go and we hopefully will get smarter as we operate and figure out what the needs are of the pool and of the Estate and the surrounding neighbors and how to peacefully co-exist.

Mr. Austin said would you seek to set some type of limit on the number of people that can access during the regular time beyond the swim meets?

Mr. Maddalon said absolutely; and in fact those limits are placed on the pool based on county code and they would probably be a lot stricter than anything we would place on it. The way that the formula works is square foot of water, cubic square feet of water inside the pool and I think the consultant said you would probably have an average of between 75 and 120 people a day visit the pool. That was the number and that actually was done via a grant that was offered. The Plaza/Midwood applied for a grant and I believe received \$15,000 or so from the City as an economic development neighborhood grant to do this study. I know little about pools and this will be a pool for the community, run by the community, run by the neighbors and I should also note that the members of the pool feel so strongly about traffic and parking that they've made it a rule in their by-laws that say that you cannot park on the street and of course if you do it says we will remove you and you don't get a refund. I thought that was very powerful; that was not my idea, that was their idea so you have neighbors looking out for neighbors. If adjoining neighbors have concerns about me as a business owner I can live with that; I think they should take some comfort in the fact that the pool will be built by, run by, operated by neighbors that live in Plaza/Midwood.

Mr. Carmichael said I want to make one clarification Mr. Austin; when you talk about a member, a member could be family too so if it is Mr. & Ms. Smith and their four children, then the family is a member. I wanted to make sure that folks are clear about that.

Councilmember Driggs said I'm interested that you arrived at this particular solution and I can understand that some of the neighbors are troubled by the impact this might have. Did you consider alternatives; what are other possibilities for this site?

Mr. Maddalon said I might invite Brian Jenest to address that; he conducted the master plan for the site. What really facilitated this was as the economy improved we had some very substantial offers to purchase the Van Landingham Estate; I want to continue to own it, operate it and preserve it. The offers that we had were substantial but they were also to tear it down and develop it so we had sort of dueling imperatives; we had an economic interest on my part in selling, cashing out and going away and another interest in maintaining it, preserving it and figuring out how to make it profitable because if it is profitable there is no reason to sell it. That was the driving force behind the master plan. What I essentially said to Brian was do I need to sell it and walk away, declare defeat or are there other alternatives available to me as a business owner that might help the property become sustainable. Again, because it is five acres, the overhead is unbelievable at the Van Landingham Estates, very unique as a historic property goes. Historic homes are expensive anyway because they are constantly breaking and nothing you can do with it, you can get at Home Depot. The five acres, the grounds, the gardens they kill us and so it has to get smaller, it has to become more economically viable and that is what drove the master plan ultimately that I chose in coordination with the Neighborhood Association which also had an opportunity to see the various options.

Brian Jenest, 200 South Tryon Street said I think the fear was that after a year the house could be torn down and then it could potentially become chopped up into single family lots which is what the neighborhood is. In trying to preserve the house and preserve the property it seemed as though putting development along the edges made a lot of sense. There is also a need for attached residential in that neighborhood; there is very little of that so there is also a very good market and there are a lot of folks who are looking to downsize, empty nesters, folks without kids. To me it seemed like a win/win. As far as the pool is concerned, the pool was part of the discussion and to me it made sense to put it along Belvedere because if you drive along Belvedere, with the hedge it will be invisible. You will be able to look right over to the house so there will not be any obstruction along there and we've had all these discussions with the Historic Landmarks and we are really very close to approval with them.

Councilmember Lyles said perhaps I've had way too much experience going to swim meets at swim clubs so we all bring that kind of like what our own personal experience would be and again I'm not quite certain that I know how the club would operate and having some more detail on that will be very helpful. I think one of the things I would really like to talk about is that when you look at the multifamily or the townhouses on the lot and I look at them and I see that the garages face the main street. We've had a couple of rezoning's along South Boulevard where we've had a lot of conversation about how do we position multifamily in a neighborhood so that it looks like a neighborhood. I'm curious about why and how you came to that decision Brian.

Mr. Jenest said actually there are only three units where the garages face the street and it is these three on Thurmond; all of the others do not, they are alley fed. These here and the ones all along the property, it is just these three and the only reason for that is because what it was going to do to the interior of the site. There are some stone walls here and a lot of landscaping and we met with staff today and in showing them the elevations I think they were satisfied that we could make it work for just these three, given the site conditions. All of the rest of them do not.

Ms. Lyles said we will come back to that for the staff question. This may be a staff question but if you take the amount of property allocated to the use of the property as the Estate I guess would be the right word, the event space, how much is the remaining property and what would it correlate to in the allowed uses with the amount of townhomes they have on it or proposed for it. Does that question make sense?

Ms. Keplinger said I understand your question, but I don't think it is one that I can answer. Mr. Jenest might be able to answer that; it will take some mathematical calculation to be able to figure it out. I don't have that information.

Ms. Lyles said I can get that information later.

Mr. Jenest said is it a density question?

Ms. Lyles said yes it is a density so if you carve out what you are required to have for the Estate and you took the remaining, you said it is five acres of space so carving out what you would need for the Estate how much is the density for the townhomes or what is the density calculation on the remaining space?

Mr. Keplinger said we will follow-up with that.

Mr. Carmichael said the staff analysis has a calculation.

Ms. Lyles said Ms. Keplinger said she would get it for me later.

Councilmember Howard said Ms. Lyles hit on a couple of my concerns. I will be honest with you; when I first looked at this I said "what in the world", now that I've looked it a little bit more I think I'm understand why it all makes some sense. Of course I've been there several times and I guess I understand what is happening on the side so I'm going to go clockwise and ask my questions and if you can get back to me it would be great. We are talking about the actual swim club and my concerns there would be how close it is to Belvedere Avenue, and Brian I heard you talk about seeing over the hedges but as close as it is to the street it won't be a thick row of hedges for sure. Actually screening around the actual pool; because I know there is a driveway that kind of goes all the way around at least over two full sizes and then there is a street on the other side. There is not a lot of green space around it so the buffering of the noise, because there are single family houses in the area, would be what? If I can get that maybe not now but later; I'll be happy to meet with you and talk to you about that. The next thing I wanted to talk about is the operations of it. Billy, you mentioned that it would be built and operated by the community, which gives me a little pause because of the fact that so many pools as communities age over time become more of an albatross around neighborhoods because now they have to charge fees and in this situation it is not even a group of homeowners that actually own it. It is people buying into a club, so if everybody decided not to buy into the club what happens. Just a little bit about the operations. Is it a non-profit, do you own it because it is on your property, are you conveying the property? Kind of some

more assurances that twenty years from now it won't be one of those that we have to go put concrete in. You know what I'm saying; some of the operations and how it will work.

The parking situation is a little concern. So you get a really good day Billy and somebody did get married during the summer, it is a big letter, you have filled all the spaces on your property, people are parked on the street and it is a nice hot day and people want to actually come to the pool. This whole idea of being able to park on both sides of the street, some of the shots that the neighborhood shared; I wonder if you guys have gone to the extent of working with the neighborhood leaders, working with C-DOT to determine if parking will be allowed on both sides of the street, how would that work, will it be regulated, just kind of how that works because that is a concern I'm sure for the neighborhood going forward. On a really good day people could be all over Plaza/Midwood on the streets and you saw the bus movement and all those things. We would plan for what you said about not being busy in the summer time, but we have to prepare for the worst, which is kind of everyday people coming in and out, children coming in and out and cars coming in and out, people parking on both sides of the street. It would be really nice for C-DOT to get involved with looking at that really hard because you want the worst case scenario, not what it is now because if things go right you want it to be as successful as possible. The parking plan and then making sure that those streets can accommodate parking on both sides of the street and I guess that is what you would do if you actually did some studying of it to make sure that buses and fire trucks and all those things that we want to get through both sides. I hadn't thought about it until I saw the video and saw how tight that could be when there is parking on both sides.

Mr. Jenest said we are just parking on one side of the street.

Mr. Howard said I saw pictures of people parking on both sides.

Mr. Jenest said what we are proposing is one side.

Mr. Howard said then you need to work with C-DOT and the neighborhood needs to so that we put signs up to say that is what we want to happen.

Mr. Jenest said that is part of why they are committing to having a policeman and parking attendants during these events; for that very reason, to be sure it is enforced.

Mr. Maddalon said I think the Neighborhood Association and we have encouraged the adjacent homeowners to consider parking by permit or restricting parking on that street. I don't know what the status of that is but that is a relatively easy fix if we go in that direction. C-DOT has also brought up the possibility; we initially did not say to pursue it, but in our meeting today we said let's take a look at possibly doing some restricted time constrained parking along the right lane of The Plaza, right in front of the Estate, like churches do on a Sunday or during certain times. We will just have to see what C-DOT has to say about that as they study that possibility.

Mr. Howard said I bet that will get a lot of respect. I'm really concerned about all the streets going back into the neighborhood because the more people you have the further they will go back into the neighborhood; they just will.

Mr. Jenest said parking is very much an issue that we are working with these folks is probably, to us, the biggest challenge and we are working through.

Mr. Howard said so the operations, this non-profit board how this works and the parking are my two biggest things. I think I'm getting comfortable with the site plan and I agree with Ms. Lyles about the back of the units facing the street and if you could work on that. There seems to be enough land for that not to happen.

Mr. Jenest said you would have to see behind those three units to understand why we just can't bring a driveway through the back. That is some of the most beautiful trees, beautiful stone walls, we have done everything we can to mitigate that but those three we just can't make it work. Again, we don't have the elevations to show you but I think again after meeting with staff today they were comfortable in that particular case with this particular design that we could make it work.

Mr. Howard said some examples then of the way that would look from the street; maybe not this product but another product would be of interest to me.

Mr. Carmichael said we've got elevations that show the buildings and once again the reason we are not making them part of the plan now is because they are going to be subject to change by HDC and HLC but will be part of the rezoning if those bodies approve.

Mayor Clodfelter said before I go on let me do a follow-up to one of the questions Mr. Howard asked; the ownership of the facilities at the swim club, will those be with the club or the owner of the rest of the property?

Mr. Maddalon said initially the club will rent or lease the land from me for the operation of the club. There is a provision in the membership plan that the club may have the opportunity to buy the club at some point in its future if they so desire.

Mayor Clodfelter said there is an option to purchase?

Mr. Maddalon said that is correct.

Mayor Clodfelter said so if later you were to for some reason decide to sell the rest of the property the club could purchase the swim club?

Mr. Maddalon said it is another poison pill to prevent a developer from - it makes the property all that less attractive for development. We just had to build in ways to make the dirt pay but also to make the property less attractive for demolition.

Mayor Clodfelter said I understand what you are doing. I asked the questions although I'm not sure whether those kinds of conditions that get embodied in a site plan, but it was a question I was just curious about.

Mr. Howard said you make a really good point and in that case it is going to be owned by two different entities; who owns what parking and what parking goes with which building? If you were to sell it and you are already doing off-site parking; that ownership piece is really important and a lot more important than the property we've thought about so far.

Mr. Maddalon said whoever buys the property would be essentially buying the lease as well along with that property and so they would be encumbered by whatever that lease calls for.

Councilmember Phipps said with respect to the proposed spa would it be limited to hotel guests or available and marketed to the general public?

Mr. Maddalon said actually there will not be a spa located at the site; that language was added at the request of Judge Becky and a group of Plaza/Midwood neighbors who were interested in possibly leasing the estate from me in the future if I decide I don't want to run it anymore, so the neighborhood; not our last community meeting, but the second to the last, we had a conversation about other alternative uses that might be attractive or okay with the neighborhood that would be consistent with the site and the one that came out of that was the possibility of using it as a spa, but that would be as an alternative to a hotel, not in addition. There just isn't a place to put a spa as long as the hotel is there, so they are mutually exclusive. It will be one or the other and I think we added language that might have stipulated that today in our meeting with staff. It is a reality just driven by space.

Mr. Jenest said assuming you can see the screen, we did want to show you what these buildings will look like and again this is not part of the petition yet; assuming it gets approved this is what you are going to be looking at. It is always helpful to have a picture.

Mr. Phipps said with respect to the swim club pool memberships. Are they exclusively for the neighborhood or will they be marketed to the general public?

Mr. Maddalon said they are exclusively for the neighborhood up until January 31st and after that point we will open memberships for sale to specified communities that adjoin Plaza/Midwood. We would hope to sell all 400 of the memberships prior to January 31st. Thus far we've had

memberships for sale now for five days and we've sold 132; so we are hopeful that we will meet that 400 and if we don't we will come darn close. There won't be very many people in this pool that aren't Plaza/Midwood residents.

Mr. Phipps said I wanted to talk about the vehicle trip generation. Under the current zoning it looks like it has 260 trips, the proposed zoning is 240 trips per day. I was kind of confused as to how this makes sense given the proposed density of the site.

Dennis Rory, C-DOT said I think your confusion is warranted. At the time in which the information was put together we didn't have information about the number of members that could likely attend the swim club so we just found that information out earlier this morning and did not have time to have that added to your data.

Mr. Phipps said do you have any general guesstimate?

Mr. Rory said for this particular use, if you recall what we generally rely on is a set of national composite data that we draw from to produce trip generation estimates. For this actual use the data doesn't necessarily exist for this specific use so what we found throughout our research today was that the majority of State and City transportation agencies actually require the petitioner or the developer to provide that information specific to their site so I think what we could do is insure we are going to work with the petitioner to figure out some comparable data from of the swim clubs here in Charlotte that currently exists and use that as a comparable data set to give you some baseline understanding of what may be the trip generation estimate.

Mr. Jenest said it is really hard to put a number on that because this is an urban swim club; this has not been done before. We are sort of forging new territory here building a pool in the middle of an urban neighborhood so we can certainly get some information but a lot of the information we will find is probably going to be suburban swim clubs where most of the people are going to drive. As Billy has said he is requiring that the people who live in the neighborhood walk; now we know they are not all going to walk, but at least an attempt to do that and he does have an off-site lot that is to the north that is going to be part of this and he leases the parking lot of the church right next door. That is going to be part of what we have in the notes; we will have to take care of the off-site parking but those are two places that we are going to be looking for in terms of that parking.

Mayor Clodfelter said Brian I have no doubt it is difficult to figure out exactly what the trip generation would be here, but that is precisely why we require traffic studies, it is not obvious and that is why we have traffic studies.

Mr. Jenest said I understand but I'm just saying we are having to make some assumptions here that aren't readily easy to find.

Ms. Lyles said specifically under the trip generation for the pool and you say the suburban versus the urban; in my experience in this swim meets are suburban no matter where they are and the number of incidents that you have and you can count those, including the Countywide Meet the Citywide Meet, the District Meet; all of that applies here so I think the Mayor's point on the trip generation is absolutely key, but I also want to add that you say let's talk about people that are going to walk. Kids bike to pools and when you look at the traffic and the configuration here one of the things that is going to be really important is kids go to the pool by themselves when they get to be a certain age and they bike there and they walk there I agree. Looking at the safety aspect with this traffic and how it is done and where the pool is located on the site will be an important aspect.

Mr. Jenest said and also the bike parking; I didn't bring that up, and yes as it relates to the swim meets that is easy; we can figure that out because they are coming from the outside. I was kind of also thinking about how we deal with the just day to day traffic of the neighborhood.

Ms. Lyles said it is the traffic, pedestrian and bike.

Councilmember Smith said I have a slew of questions. My first question is procedurally; I want to make sure I understand you are applying for a Historical Designation so when is that approval in relation to when we vote on the petition?

Mr. Carmichael said this is unusual and I have never been personally involved in something like this where you have the site that you are requesting be rezoned, it is a Historical Landmark and it is in a Historic District. In order to make any improvements to the site you've got to get approval from the Historic Landmarks Commission and you've got to get approval from the Historic Districts Commission. With respect to the Historic Landmarks Commission, and they both have to approve the site plan and the elevations so Historic Landmarks has approved the site plan. They are going to consider on February 9th, the elevations. With respect to the Historic District, that application is being filed tomorrow and the Historic District will consider the site plan and the elevations on February 11. If we stay on the current scheduled we would come back to you guys on February 16 for a decision. If we get approval, and I'm not assuming that we are, but if we get approval from HLC and HDC then we would attach the building elevations and make them a part of the conditional rezoning plan. If we don't get approval from those bodies then we are toast and we can't move forward. We've got to get approval from those bodies to have a project that can move forward.

Mr. Smith said if I am doing my math correct, we meet on the 16th which is Monday and the 11th would be Wednesday so there would not be an inordinate amount of time for us to digest the proposed elevations prior to the vote.

Mayor Clodfelter said let me piggy back on your observation, which is correct, and it also means that the Zoning Committee will not have the elevations when they next consider the petition and they might actually want to look at the elevations; that is up to them.

Mr. Smith said there was a comment made about tearing down the estate; help me understand if it is a Historic Landmark does it not need to be a petition to tear it down?

Mr. Carmichael said I want to make sure I'm clear about this; no one here is saying that the estate is going to be torn down. If someone desired to tear it down it would need to go before Historic Landmarks Commission and get what is called a certificate of appropriateness to tear it down and before the Historic District Commission. As I understand it those bodies could not refuse someone's request to tear it down, but they could delay it for a year, 365 days, but somebody would have to go before those bodies and make the request. For instance in connection with this petition or this application, remember there are two single family attached homes that are part of this petition, we have to get approval from HDC to tear down one of those homes.

Mr. Smith said I want to get a follow-up from staff; that doesn't fully match my understanding, I've got something listed that it is a Historical Landmark. I want to move on to the pool and I've got huge concerns about the pool. I live in Barclay Downs and there is a neighborhood pool in Barclay Downs and I would dare say that it is not a suburban pool; it is located in the heart of a 400 home community. On swim meet nights for those of you who are familiar with Barclay Downs Drive that cuts through the heart of the neighborhood, there will be cars on Inverness Road west of Barclay Downs, which is about .3 of a mile if not longer. Cars will go up Sayer Road and cross over Scofield down past Fellsway Road and it is a huge, huge volume of folks that are imported into the neighborhood. Swim meets, you may only have a few of those a year, but they are big events and take a big toll on neighbors and in this case it would be unsuspecting neighbors that bought their homes under certain circumstances. We bought our homes knowing that the pool was near there and then you have Fourth of July parties, you have Labor Day parties, you have new coming member's parties, you have Memorial Day parties. I think that the pool becomes a very big focal point for the surrounding community and I don't know how you put it in the guidelines, but you end up with a lot of folks driving. Our big joke in Barclay Downs is don't put your house on the market when the pool is open because if you live on Inverness nobody is going to want to buy the house. I really have concerns about that and it is a privately owned pool; it is not a member-owned pool, it is a privately owned pool.

To Mr. Howard's point noise mitigation, now you have some visual buffer but the noise mitigation over across to Belvedere for the pool seems pretty hard to contain. I have concerns about possible hours of operations. I am really having a hard time and I'm happy to meet with you all but I'm really having a hard time getting my hands around the pool aspect of this. I understand you are searching for a viable way to keep the Van Landingham open and I love those efforts and I know it

is critical both to Charlotte and the Plaza/Midwood Neighborhood, but as somebody that lives near a neighborhood pool, and again I bought under those circumstances, I'm really having a hard time getting my hands around this. If you sell 400 memberships and you have 125 folks there on a Saturday that is a quarter of the membership and those numbers may toggle. I have one question for the neighbors and I don't care which one of you comes down, but you need to come down to mic and answer it. Help me understand the video I watched and these pictures. When were they taken, like what day of the week? I just want to have a better understanding of the traffic concern I'm looking at.

Mr. Brantner said I'm sorry I didn't take the video.

Ms. Muir said the videos were shot on a week night around 5:00 or 6:00 p.m. earlier this fall. There was an event going on in the middle of the week night.

Mr. Smith said how many events do you host Mr. Maddalon?

Mr. Maddalon said about 100 events per year at the Estate; this particular event is Taste of the World. I am very familiar with what happened that night; it was a disaster.

Mr. Smith said I don't think a police officer or a parking attendant can do much for the pool. I look at those pictures and I think they will be replicated almost every Saturday and Sunday during the summer because they are replicated in my neighborhood. I welcome Mr. Carmichael to come and set it up and we can sit down and kind of walk through some of this, but that is where I am struggling the most.

Mr. Carmichael said Mr. Gray from the Historic Landmarks Commission is here Mr. Smith, if you have a question about the procedure.

Mr. Smith said I'll catch up with him off line. I think I've used my air time at the moment.

Ms. Fallon said would you consider owning the pool and then leasing it so you have control of it? I've very troubled by the fact it is going to be a co-op; they never work out.

Mr. Maddalon said essentially the way that we worked it out is that we didn't want a pool operating completely independently of the historic estate there and that there had to be some checks and balances involved and at the end of the day, for example, if the pool doesn't do what it supposed to do, via the parking, via the commitments not to park on the street, via the operating hours, etc, etc. I'm ultimately accountable for that.

Ms. Fallon said is there a time restriction because I will tell you in mine they rent it out to people and at 12:00 midnight those booms are booming and you can hear it all over.

Mr. Maddalon said that won't be going on at this pool. We will have lodging guest at the estate that would check out if we have that type of noise.

Ms. Fallon so there will be a time restriction?

Mr. Maddalon said oh absolutely, and we are also near a church where we lease their parking so we obviously have to be sympathetic to their operating hours as well.

Ms. Fallon said and vetting who you would rent to for parties?

Mr. Maddalon said we would not rent; as the membership plan currently stands someone that is not a member of the pool cannot rent the pool for a private event, only members can do that. That was another neighbor concern and they addressed it that way. For me it is a nonissue but I understand what they are trying to do is limit the impact of the pool on the surrounding community and that is one way to do it.

Councilmember Kinsey said I don't disagree with much of anything that has been said. I have some real strong concerns about this in a lot of different ways, and I am the last person around the
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dais who should say this but the fact that it doesn't really adhere to the Central Area Plan bothers me in this case. I certainly have been known to vote for something that didn't adhere to a plan, but this does concern me. The parking on both sides of the street or if you try to limit parking on one side of the street, that means you limit it to everyone, even the people who live on the street so you have to think of terms like that. We have a little bit of a problem like that on my street in Elizabeth and you have to be careful before you start limiting parking on one side of the street because it does apply to everyone unless you try to do some kind of sticker or permits and then where does your guest park. It is a consideration. The pictures that I'm seeing, not this one, but some earlier ones only showed the back sides where the garages were, where were the townhomes built because it went against what you said Brian about the three having garages. I just question that and I don't even like those three garages facing the street and I really think we try very hard to make townhomes – first of all I don't think the townhomes are very appropriate because they don't adhere to the Central Area Plan, but if for some reason they are approved by all the organizations that have to approve them, I really don't want to see any garages because we always ask for it to be pedestrian friendly and the doors face the street.

I am one person who will not vote on anything unless I've seen the elevations when it is appropriate to do so. I want to make sure that everybody sees the elevations before it ever comes back for a vote. I think that is pretty much all except that I just have to say that I'm not real excited about this plan right now.

Mayor Clodfelter said if there are no other Councilmembers I've got a couple things of my own that I don't think have been touched on yet. Again the size of the plan is kind of small and my eyes are kind of old so I may not be reading right. It looks to me that the units that are on the new alleyway backing off of The Plaza are on individually deeded lots which would be appropriate for townhomes but I can't tell whether that is the case for the units that look to back upon to Thurmond Place; are those on separately deeded individually owned lots?

Mr. Carmichael said they will be for sale; they will be ownership units.

Mayor Clodfelter said but the dirt underneath is also, so it is going to be subdivided off and the access street for the lots, that sort of come off The Plaza; is that a public street or a private street?

Mr. Jenest said are you talking about that alley?

Mayor Clodfelter said yes sir.

Mr. Jenest said that is a public alley.

Mayor Clodfelter said so it is going to be built to public standards?

Mr. Jenest said I'm sorry it is a private alley.

Mayor Clodfelter said will there be a homeowner's association for the maintenance of that street and will it include the other units back on Thurmond Place; will they be part of the homeowner's association and have you prepared the covenants and the declarations for all of that yet?

Mr. Carmichael said no sir.

Mayor Clodfelter said will any of those sort of affect or connect into the rest of the property?

Mr. Carmichael said I can't answer that question because I haven't been engaged to do that. What I would anticipate having is the restrictions would apply only to the residential portion and not to the estate portion, that would be my belief.

Mayor Clodfelter said that is a private street back there but it will connect directly to Nassau Boulevard so I guess if I wanted to I could use that as a cut through between Nassau and The Plaza?

Mr. Carmichael said if you chose to, yes sir.

Mayor Clodfelter said have you given any thought to sort of stopping that?

Mr. Carmichael said by way of a gate?

Mayor Clodfelter said or some mechanism to avoid that becoming a new cut-through route which is not a very convenient way to use that road, but people might want to use it to avoid if there is congestion or parking on Belvedere they might choose to use The Plaza to Nassau.

Mr. Maddalon said Mayor if I could address that; that alley wouldn't save you any time; it really doesn't cut through to anything. It is going to be relatively narrow; the reason that we didn't close it off on the Nassau end was for fire and safety reasons. If a fire truck or an ambulance or some other kind of large vehicle needed to get into that alley it would probably come in from The Plaza Station No. 1, take a right in and it would obviously need a way out and so that connectivity provides a way in and a way out. Having lived in Plaza/Midwood all my life I can't imagine anyone using it. We have alleys all over Plaza/Midwood now and no-one uses alleys to cut through.

Mayor Clodfelter said so do we and people use them all the time.

Mr. Maddalon said well if they do it is okay. We did have it dead ended but we were told it needed to be connected.

Mayor Clodfelter said someone told you to connect it; who just for curiosity?

Mr. Jenest said fire. We could do traffic calming or something to do that; we don't care whether it is connected or not.

Motion was made by Councilmember Howard, seconded by Councilmember Kinsey, and carried unanimously to close the public hearing.

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ITEM NO. 22: HEARING ON PETITION NO., 2014-113 BY DONA M. PATTERSON FOR A CHANGE IN ZONING FOR APPROXIMATELY 0.65 ACRES LOCATED ON THE EAST SIDE OF WEST SUGAR CREEK ROAD BETWEEN PENNY WAY AND NORTH TRYON STREET FROM R-12MF (MULTIFAMILY RESIDENTIAL TO O-1(CD) (OFFICE CONDITIONAL).

Mayor Clodfelter declared the hearing open.

Tammie Keplinger, Planning said this is a request from R-12MF to O-1(CD) and this was the petition associated with this property earlier was withdrawn. That was to allow this case as a conditional district to come back in. The property is located right off of Sugar Creek Road and North Tryon Street right at Sugar Creek Presbyterian Church. It is for an office and it is to use the existing home. There is one issue with the buffer located on the south side of the property; there is a variance that is needed. The petitioner has been asked to apply for and receive that variance before it comes back to the Council for a final decision. In terms of the land use plan the land use calls for multifamily for this area but as this area leads into, there is between the cemetery and vacant property which is slated for multifamily staff feels that it is something that we can support. It is the reuse of an existing single family structure, it retains the character of that structure and it provides the transition. We have a couple other site plan issues that need to be addressed, but otherwise we are recommending approval upon the resolution of those issues.

Councilmember Phipps said in the various notes that were put forth by the different departments I'm just trying to get an estimate of the expenses associated with the requirements that are prescribed by those particular entities or those departments, particularly Transportation, Engineering and Property Management and Code Enforcement to eventually bring the building up to code when and if it is approved. Does anyone have any guesstimates of how much in the way of additional expenses might be associated with those types of requirements for the petitioner?

Ms. Keplinger said we have never done any estimating in that regard. I'm sure that there might be someone that has done that and we could probably ask some of the consultants that we work with but we normally do not look at it from that perspective.

Motion was made by Councilmember Fallon, seconded by Councilmember Barnes, and carried unanimously to close the public hearing.

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ITEM NO. 25: HEARING ON PETITION NO. 2015-002 BY CHARLOTTE MONTESSORI SCHOOL FOR A TEXT AMENDMENT TO THE CITY OF CHARLOTTE ZONING ORDINANCE TO MODIFY THE STREET FRONTAGE AND PRIMARY ACCESS REQUIREMENTS FOR CHILD-CARE CENTERS.

Mayor Clodfelter declared the hearing open.

Sandra Montgomery, Planning said this is a Text Amendment by the Charlotte Montessori School and I will give you a brief overview of it before the Petitioner speaks. The purpose of this Text Amendment is to delete; and we are talking about child-care centers, delete the street frontage and primary access requirements for child-care centers located in non-residential districts, to clarify the street frontage and primary access requirements for child-care centers located in a residential zoning district and to correct a list of zoning districts in which child care centers are currently permitted. That list just needs updating in the Zoning Ordinance.

Currently our Zoning Ordinance has four types of what you would call child-care centers; we have a family child care home, we have child care centers in a residence, child-care centers for 13 to 79 children and large child-care centers for 80 or more children. What we are talking about tonight is the one that is highlighted in red, child-care centers for 13 to 79 children. The Zoning Ordinance only has street frontage and access requirements for child-care centers, we don't have any for large child-care centers which is why are there street frontage requirements then for the middle size care centers. It is basically inconsistent to require street frontage and access requirements for child-care centers that are smaller if we don't require it for larger one when they are in non-residential zoning districts. Again our proposed regulations are to delete those requirements in the non-residential districts for child-care centers, clarify the street frontage and the primary access requirements do apply for child-care centers located in residential districts and to correct that list of zoning districts in which they are currently permitted. Staff recommends approval of this Text Amendment; it is consistent with the Centers, Corridors and Wedges Growth Framework Goal to insure diverse and growing and adaptable economy.

Councilmember Kinsey said this was very difficult for me to understand to tell you the truth. Maybe because I'm a visual person, seeing examples of what we are talking about would be helpful. I'm going to go on trust tonight or when I get ready to vote I'm going to go on trust, but it was just a little confusing and I wasn't quite sure.

Ms. Montgomery said it was a difficult Text Amendment to put into a PowerPoint because right now street access and primary access requirements, a read is that they are only for child-care centers and I said there were four types and there isn't that requirement for the larger ones, mainly because the large centers are in non-residential districts. The smaller child-care centers which are up to 79 people can be in both residential and non-residential so we are just trying to line up for consistency purposes the regulations. Our Zoning Ordinance is so old and things have been put in sort of piecemeal and this inconsistency came up for the Montessori School and staff met to try to resolve those issues and it just didn't make sense for why he has to meet the requirements and a bigger child-care center doesn't.

Ms. Kinsey said maybe what threw me was street frontage and primary access that is why if I had had a picture; I don't have a problem with this as long as there are no unintended consequences but it was a just a little difficult for me to picture in my mind when it was reading it.

Ms. Montgomery said if I can clarify, the street frontage is where the child-care center would be on a major or minor thoroughfare or a collector and the primary access is written in there so if they did front on one of those, but they had primary access from another street, as long as it fronted on a main street it could have primary access. I'm not sure why that was in there to begin with.

Councilmember Lyles said can you go back to the slide that was previous? I understand if there are the different categories of child-care centers; what you are proposing there are no street frontage for the non-residential; inconsistent to require for the centers that are 13 to 79, I don't understand the 13 to 79, when does 79 and 80 become one of the things so I wonder why it wouldn't be – I'm really unclear what the requirements are even after the PowerPoint because I'm not sure why 79 to 80 makes a difference and I'm not sure what we are actually requiring so I'm assuming that that means that you have to have access to a minor or major thoroughfare from your driveway and that this would change that requirement.

Ms. Montgomery said no it would keep it for child-care centers in residential districts only, but if you were located in B-2 and you were on a major thoroughfare how would a child-care center be different from retail and that is the reason why larger child-care centers don't have a street frontage requirement if they are in a non-residential district. The numbers of children are set by state regulations and how they are licensed so the Zoning Ordinance does not set that.

Ms. Lyles said if I have a child care center with 80 people you are under the requirement now, I don't have to have access to a major or minor thoroughfare with my driveway, but what do I have to have access to?

Ms. Montgomery said you don't have to have access to anything if you are a large child-care center with more than 80 children. There is no requirement right now and that is part of the issue, the same type of requirement for both, not the same, but large child-care centers aren't required to have that if they are B-2, but smaller ones are required to have that if they are in B-2.

Ms. Lyles said if I'm at 80 and I don't have to have access to a major or minor thoroughfare I can drive down a driveway, across somebody's yard, cross the stream and into the woods.

Ms. Montgomery said you can be in business and there are no requirements for that.

Ms. Lyles said I'm not clear.

Ms. Montgomery said I'm sorry we will try to clarify that for you.

David Powlen, 2923 Wheatmeadow Lane said this petition is actually very specific to a site in Charlotte so we can give you an example of our particular situation. The property in question is a half-block off of South Boulevard and it is a property that all the properties around it are zoned business or office and it is as well and all the uses around it are business or office. Our center falls into that child care definition in the Zoning Ordinance of between 13 and 79 children so we are less than 80. The way that the Zoning Ordinance is currently written for us to put a child-care center there we would have to have access to a major or minor thoroughfare or a collector road because we are less than 80 students. If we were more than 80 students we wouldn't have the same issue, but we are not trying to increase to get to that number. All we are trying to do is bring the requirements for larger centers over 80, make it consistent for that same child development center that is between 13 and 79 that is in a non-residential zoned area. We understand that you don't want your neighbor in a residential district to open a child-care development center and being able to access that off of a smaller street. That is why it is confined to only non-residential districts. As I said we are a half block off of South Boulevard with all surrounding office and business uses, but the street that we actually front on is labeled as less than a collector so we can't actually have people get access to the child development center off of that street. When we met with staff to talk about different options of how we could address that this seemed to be what was the most consistent way to address it and kind of also bring the ordinance together for not having a more restrictive ordinance for a smaller child development center than you do a larger one.

Mayor Clodfelter said there was a piece in here that we haven't talked about and that is to correct the list of districts; one of the things I learned in the Legislature was if somebody stepped in the
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Chamber and said oh, this legislation is merely correcting and clarifying then I'm going to pay attention that something was about to happen. What is being corrected here and how is it being corrected?

Ms. Montgomery said there is a paragraph the introduction to this section and the urban and industrial zoning district was left off of that list, but it is listed in the Chapter on Urban Industrial as a permitted use. The three TOD Districts were left out of the list; they are in Transit Oriented Development Chapter that child-care centers are an old permitted use so those were left out. It says MX-1 was listed as a district where child-care centers were permitted and they are not permitted there.

Mayor Clodfelter said so they are in the text but not in the table of uses.

Ms. Montgomery said they are in the table of uses, they are in the text, but in the Section 12.502, the introduction, and I think that is in your Text Amendment, if you look at you will see the underscores for the districts which were added and only the MX-1 was taken out, so it was sort of misleading.

Mayor Clodfelter said Councilmember Kinsey is not following you so give us the reference again.

Ms. Montgomery said Section 12.502, Item three, it is in your Text Amendment, the first page of the Text Amendment, it says revise 1/9/15 in your zoning packet.

Ms. Kinsey said I got it.

Motion was made by Councilmember Phipps, seconded by Councilmember Driggs, and carried unanimously to close the public hearing.

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ITEM NO. 26: HEARING ON PETITION NO. 2015-005 BY SIM USA FOR A CHANGE IN ZONING FOR APPROXIMATELY 108.86 ACRES LOCATED ON THE SOUTH SIDE OF CHOATE CIRCLE AT THE SOUTHERN INTERSECTION OF MOSS ROAD AND CHOATE CIRCLE FROM INST (CD) (INSTITUTIONAL, CONDITIONAL) TO INST (CD) SPA (INSTITUTIONAL, CONDITIONAL, SITE PLAN AMENDMENT).

Mayor Clodfelter declared the hearing open.

A protest petition has been filed and is sufficient to invoke the rule requiring affirmative votes of ¾ of the Mayor and Councilmembers, not excused or recused from voting, in order to rezone the property

Tammie Keplinger, Planning said this is the one I spoke about at dinner that is right at the state line. This is the Gordon Conwell Seminary Property, zoned INST (CD) and you can see Choate Circle is located here and here is the South Carolina line. In terms of this property, there have been several rezoning's over the years for this property and most of them are associated with the Seminary and allowing the Seminary, but the request that is before you tonight is to allow a monopole cell tower that is 210 feet in height. The location of the proposed tower would be here; there is an existing small tower on this site at that location now and it was used by the Seminary but they are not going to be using it so it will be torn down. It has exceeded its life evidently and they have someone who wants to put the communication tower at that location.

We do have a protest petition on this; we had one property owner to sign it, their house is in this area and it is about 1,800 feet or 1/3 of a mile to the site from their house. I also looked at the elevations on that and even though the terrain goes up and down the elevation at the pole is about 574 feet and it is about 580 to here so this is just a little bit lower than this house location. I'll talk briefly about the site plan; it adds the telecommunication tower as a use, limits the height to 210 feet. It specifies the lighting materials and color standards which are required by ordinance. It has minor modifications to some of the conditional notes and those minor modifications relate to the

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allowance for the equipment that has to be associated with the tower such as the utility needs and things like that. In terms of the future land use plan it does recommend institutional uses for this site. The reason this request is before you tonight is because the property is zoned conditional and cell towers are allowed in our institutional districts, but it wasn't listed as a permitted use for this site when it came through the last rezoning, therefore they do have to go through the rezoning to allow that use. The request is consistent with the Steele Creek Area Plan and as I said cell communication towers are allowed in institutional districts when they are not conditional. It is about 1/3 of a mile from the nearest single family home or public street and the outstanding issues are technical in nature. Staff is supporting this petition upon the resolution of the outstanding issues.

Allison Merriman, 223 North Graham Street said I am with Land Design and Land Design did the original rezoning in 1996 and now the subsequent request to add a communications tower as an approved use. I'm happy to answer any questions you have regarding this site plan. With me is Jonathan Yates with SCI Towers and he can speak in more detail about the tower itself.

Councilmember Smith said I see a 210 foot tower; how tall typically is a cell tower?

Jonathan Yates, 105 Broad Street said they range anywhere up to 300-350 feet in an urban area like this; a lot of them come in around the 200-220 foot mark so this would be sort of in the middle to the lower end. If you travel, leaving Charlotte heading to Columbia, South Carolina the ones you see along I-77 they are all about the 300-foot mark so this is reduced.

Mr. Yates said first and foremost this is the first time we've appeared before you on a rezoning and before we got Land Design involved I came up here on my own to meet with your Planning staff and they treated me very well. I want to thank you; I had a lot of stupid questions and no-one laughed at me, at least till I walked out of the door. The other thing I want to thank, we had a community meeting on this in December and I really want to thank Councilmember Mayfield. Very rarely do I go to community meetings where the Councilmember is there; that could be standard in Charlotte, but it sort of surprised me and I thank her for attending. The purpose on this tonight is there is a need in this area by two cell carriers, Verizon Wireless and T-Mobile USA to provide additional coverage and capacity throughout this part of southern Charlotte. We went to search for an appropriate site forum and over the years I have been in the cell tower business about 20-years and very rarely have I found a location this incredible. We have an almost 108 acre piece of property, it is off of Choate Circle, goes down to South Carolina. What attracted us to this property was that it had incredible size, it had incredible tree cover and it had an existing tower on it. As was discussed apply by staff the existing tower was used by SIM USA to communicate to their headquarters in Fort Mill; we are going right where the existing tower is if approved. When we go out with our crew to put the new tower up, the old tower comes down. The old tower is a little bit shorter than this one, it is an older design; it is what we call the guide design where you have the wires coming out three sides. This is what we call the monopole design which in a monopole cell towers come in a lot of different flavors, you have the guys, the three-sided lattice you've seen on the highway. The monopole is our most visually pleasing, most analogous; what a monopole is; it is just like pylon sign that you would have a Hardee's or a Lowe's sign on except we over design it and we put communication equipment. Again this has been designed for two, Verizon and T-Mobile. A couple things, what a tower is not; we got to meet in our community meeting our friend Alex Salazar, who we were not able to convince it was the greatest thing in the world so he is going to speak to you, but to speak to you a little bit of what we are not, this facility will take about 30-days to put in and staff told you we are going to be about 1,826 feet off of Choate Circle, Alex is our closest neighbor and that is always the toughest thing with cell towers, there is always a neighbor and we are 1,950 feet from Alex's house, so almost 2,000 feet. The facility, we had to have it approved by the FAA; it will not require lights so basically with this facility there is no lights, no noise, no odors, no fumes, it takes about 30-days to put it up. It is a very quick construction period and most of that time is spent on the foundation work and then we come back in, the two carriers, Verizon and T-Mobile in this case, on average they will visit maybe three to four times a year, the equipment is monitored off-site, they will come about three or four times a year in a light truck for about an hour or two so we do not create any traffic or congestion along Choate Circle. I have worked on a lot of sites; very rarely do I have a site like this with that kind of tree cover. We are surrounded on one side by a lot of industrial; on the South Carolina side we have some vacant commercial property. We do have Alex and his neighbors on one side and we

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understand that and again what we are trying to present tonight is not just a cell tower but we are presenting infrastructure. We are 21st century infrastructure; I noticed my friend Alex while he was getting ready to talk tonight, he spent the most of his time on his phone. I also spend a little time on my phone. Cell towers provide wireless infrastructure; we are no different than the other infrastructure you presently have in Mecklenburg County, power, water, sewer and telephone except with a few very good placements we can cover a wide area and bring in this 21st century infrastructure. Again, we want to thank SIM USA, you might know about them or you might not know about them; they were started in 1890, they are presently doing missionary medical work in 60 countries around the world and we want to applaud SIM if you happen to see the 2014 Time Person of the Year, it was the SIM doctors involved in the Ebola crisis so we are very happy to partner with SIM.

Mayor Clodfelter said what is the height of the current tower?

Mr. Yates said the height of the current tower is around 120-feet; it is ...tower at 120-feet. What we are going to do is 195 feet and have the two carriers on it; we've also designed it for the other two primary carriers in the market if they also need it. Once it goes up we will have space for them to apply their equipment also.

Alex Salazar, 14723 Choate Circle said my protest is based on a couple things and first it is visual pollution. Obviously, everyone loves infrastructure, I love my phone, I love my wireless access and everyone does until you have a cell tower built in front of your house, then you might have an issue with it. Just as he mentioned it is a great area, industrial or what not, so why can't it be a little further into the industrial area versus coming right to the limit of the residential area. I'm the first house on Choate Circle and there are really only two houses on Choate Circle that face Choate Circle as far as the front door. About two blocks away is when you start getting into the industrial area. With them bringing in the tower it is bringing that industrial area closer to the neighborhood. There is a great skyline view; nothing but beautiful trees on SIM properties and what they are doing is polluting the sky, polluting the way it looks. It obviously is going to drop property values; you ask any type of realtor about selling a house with a cell phone tower in front of it and it is going to be a lot more difficult than selling one without it. Everybody knows that the recession hit hard and everybody's property values went down; everybody here went through that. My property is under water and now a cell phone tower is probably going to bring the value down just when it is starting to creep up and maybe I can come out of the water. I have children that I also worry about and I feel they can look somewhere else. During the meeting they didn't mention anything about going from 120 feet and if I recall it was always about 100 or 160 feet and here is the first I hear about 220 feet which is even bigger than I thought it was going to be. The other thing is with the cell phone towers, he said better coverage. I have AT &T, my wife had T-Mobile and my sister which lives about ½ mile away from me had Verizon so we don't have any issues with the cell phone coverage, not at our house. Coverage gap I don't think it has to do, this is more about saturating the cell phone market and who knows within 10-years why can't there be another technology that is going to replace these towers, so why build one now when there is plenty of area where you cannot build and not be so close to residential area.

In rebuttal Mr. Yates said thank you Alex for coming. Yes, the tower will be only be up to 195 feet so I want to clarify that.

Mayor Clodfelter said not 220?

Mr. Yates said no just 195.

Mayor Clodfelter said is that in the notes or the plan?

Mr. Yates said we had it up to 210, but we are only going to build 195 and we will accept it; 195 does have a four-foot lightning rod so 199 to be very precise, I want to get the lightning rod in. Regarding Alex's point, if we were going right in front of his house we might have a question; we are going 1,950 feet away and our dilemma is we have to bring our coverage to what we call the final frontier for wireless which is in building residential coverage. It means we need more and more facilities to handle the capacity issues generated by densely packed residential. To do that we don't go right on his residential property; we go close as we can, we find a good property, good tree
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cover and in this case we have a distance of close to 2,000 feet from his house. We have seen reverse; we have not seen property values decrease we've seen the addition of infrastructure actually enhance property values, particularly for the younger home buyers. I understand Alex's concerns and we will continue to talk to him and work with him, but as wireless sites go, and I've worked on quite a few over the past 20-years, very rarely do you have 108 acre piece of property or we are able to partner with someone like SIM USA and Gordon Conwell and do we have the tree cover and the industrial around us to help manage the facility. Will the very top of it be visible from Alex's house, yes but that is all you see and finally, as it will not have any lights, it has been approved by the FAA for no lights, if it was up today and we drove home right now or Alex and I went to his house you wouldn't see it because it is dark outside.

Councilmember Austin said I've seen these towers and is this one going to be kind of camouflaged to look like a tree? I've seen those around Charlotte.

Mr. Yates said I know the hour is late, if I could be polite because I feel like I'm among friends; the trees do not work that well here. We actually sometimes refer to the trees, and I apologize for my language, as a toilet brush because you have this pole going up and then you see what looks like a brush on the end. Where we have effectively deployed the trees Mr. Austin is up in the North Carolina Mountains in the western counties where you have the tree and then you have a sweep of green coming up behind it as the elevation increases. What we try to do on these, the camouflaged technique is going to the monopole design, it is thinnest silhouette, we go to the monopole design and we try to get it as we did here with some good surrounding tree cover so the further you get the harder it is to see because you have the tree angle hitting you and then again we try to design them, as this one was, to have it approved by the FAA so it doesn't carry lights. In all the towers I've worked on in the past I've got a lot of folks like Alex who I ended up making friends with, I said just bear with me when it comes in you are going to see it the first day, then you are really not going to see it after that. If you drive home you probably have power lines and phone lines the whole way down your street; you don't see them every day. This will be just one visible spot that you have to look at to find, stare and see just the top of it so from a visibility standpoint, the 108 acre property, our ability to get so far off of Choate Circle really decreases visibility almost completely. It will be visible but very diminished.

Councilmember Mayfield said I'm going to have a couple of questions; Mr. Salazar if you can step back to the microphone please. As was mentioned there was a neighborhood meeting on December 22nd right before Christmas and there were two residents that were in attendance, including of the two, Mr. Salazar. Mr. Salazar have you actually spoken to a real estate agent to get the information that you referenced regarding the property value, and before answering that the reason I'm asking is because we have a lot of areas of town that have not just the towers but the whole power towers that are literally in people's back yards opposed to off. What are we looking at more than 1/3 of a mile away from the facility so I'm wondering have you actually spoken to a real estate agent recently?

Mr. Salazar said off the record yes, I spoke to a real agent about it and he said personally yes, it is harder to sell a house with a visible cell tower in the area. Public perception of cell towers is not too good for some people whether it is fact or not, but perception does create fact. He mentioned that you might notice it the first day, well when someone goes and looks at the house for the first time, guess what they are going to notice the first day, the cell phone tower and that is what they are going to remember. Only one time you are looking at it right, one day, so that perception becomes reality to some people and they might have negative perception about cell phone towers.

Ms. Mayfield said so you have spoken to a real estate agent; you spoke to them off the record and they said there could be some challenges?

Mr. Salazar said absolutely, without a doubt.

Ms. Mayfield said now I'm going to ask Mr. Yates a question based on the meeting that we had and the conversation tonight. The current tower has already been there, the current tower that SIM is using which was discussed at the meeting and what you reiterated tonight is the fact that if this moves forward you are going to be removing that tower and replace it with basically a newer tower.

What are we looking at as far as distance size wise between the current tower and the commitment that you just made verbally of 199 feet, not up to 210?

Mr. Yates said we will back up the commitment in writing. The difference is approximately 120 feet now and that tower is the old style, guy-wire towers so it has wires coming out from it and we would go to the monopole, which is a thinner silhouette that does not have the wires and it would be an increase of about 75 feet. Working with the terrain, the tree covering the staff pointed out, we drop down from Mr. Salazar. When we talk about a view of the tower what I think you will see is maybe the top of it, you will not be looking at a tower and you would have to tell someone that is a tower. It would be that far away and that less visibility, the tree intervene and the distance intervenes.

Ms. Mayfield said Ms. Keplinger, this question is for you; when staff was reviewing this particular proposal and looking at the increase of the additional 120 feet and the impact of the potential, if any impact of the two homes, outside of the outstanding issues that were identified, were there any other concerns or have we received any studies regarding tower impact. I know we have an idea of what the impact can be, but have we done any actual studies?

Ms. Keplinger said there may be have been some studies done back in the 1990's when cell towers became a real popular issue in cities across North Carolina, but there have not been any studies that we have done recently. As I said they are allowed in all of our zoning districts with different restrictions, but if this had not been a conditional zoning request we would not have brought this before you tonight.

Ms. Mayfield said so as it stands if it were not a conditional rezoning request they could have moved forward with this particular project without even coming before Council?

Ms. Keplinger said that is correct.

Councilmember Fallon said Mr. Salazar you bought your house with the old tower there?

Mr. Salazar said yes ma'am and that was a communications tower, not a cell phone tower; at the meeting they told me it uses a different type of signal.

Mr. Yates said actually it is the same thing. It uses a magawave signal that the cell towers also use for backup so there is really no difference. It was dedicated for the use by SIM was the only difference. This one would be, if SIM wants to use it, it is available to them, but also for the two companies.

Mr. Fallon said and it had the old guy-wires that hold it?

Mr. Yates said yes ma'am it had the old guy-wires.

Ms. Fallon said were they visible?

Mr. Yates said no you really couldn't see it because it is so far back in the property. It is not back, if you go right up to Choate Circle; if you approach the SIM Campus a little bit off the street you see their first – this is where they train their missionaries, the medical and regular missionaries to send them out so you have that part of the campus up at front, the Seminary over to the other side. This is back in the back of the property, almost to South Carolina.

Ms. Fallon said any other plans for that 108 acres or is this going to be it?

Mr. Yates said this is all we have; SIM obviously has their rights but we do not know of any additional plans that SIM USA has at this point.

Motion was made by Councilmember Howard, seconded by Councilmember Austin, and carried unanimously to close the public hearing.

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ADJOURNMENT

Motion was made by Councilmember Austin, seconded by Councilmember Driggs, and carried unanimously to adjourn the meeting.

The meeting was adjourned at 8:53 p.m.



Emily Kunze, Deputy City Clerk

Length of Meeting: 3 hours and 37 minutes
Minutes Completed: February 3, 2015